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U. S. DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.
C. L. ALSBERG, Chief of Bureau.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

JANUARY, 1914.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—QUOTED FROM CORRESPONDENCE.[2]

1. The use of "cull" beans or beans which are moldy, musty, or otherwise decomposed and of tomato sauce made from decomposed tomatoes in the preparation of baked beans.

DEAR SIR: The attention of the Board of Food and Drug Inspection has been called to the practice of using "cull" or other beans which are moldy, musty, or otherwise decomposed in various canned food products, such as baked beans or pork and beans. Products made from such material are manifestly contrary to section 7, paragraph 6, in case of foods, of the food and drugs act.

The use of tomato sauce or pulp which is prepared from decomposed tomato or trimming stock, in the preparation of baked beans or other food products with tomato sauce, is also deemed to be in violation of the law.

Respectfully, C. L. ALSBERG,
Chairman, Board of Food and Drug Inspection.

2. Weights of clam meat required in cans of various sizes.

DEAR SIR: Food Inspection Decision No. 144 states that in canned food products the can serves not only as a container but also as an index of the quantity of food therein. It should be as full of food as is practicable for packing and processing without injuring the quality or appearance of the contents, and such products as require the addition of brine, water, etc., for proper preparation should contain only sufficient liquid to fill the interstices and cover the product.

The board has received many inquiries from canners of clams regarding the weights of clams which cans should contain in order to comply with the require-

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication will be issued monthly by the Bureau of Chemistry. It covers the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution will be limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

[2] In order to avoid the publication of unnecessary matter, those portions of the correspondence which do not bear on the subject in question have been omitted.

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ments of the above decision. The subject has, therefore, been investigated by the Bureau of Chemistry. As a result of this investigation it is the opinion of the board that cans which contain the weights of drained clam meat shown below will satisfactorily fulfill the requirements of Food Inspection Decision No. 144. These weights are "cut-out" weights; i. e., the weights of meat left in the can after all free liquor has been drained off.

Type of can.	Diameter.	Height.	"Cut-out" weights of clams.
	Inches.	*Inches.*	*Ounces.*
No. 1, regular or oyster	$2\frac{1}{16}$	4	5
No. 1, Maine style	3	$4\frac{7}{16}$	8
No. 2, short or picnic	$3\frac{3}{8}$	4	$8\frac{1}{2}$
No. 2, regular	$3\frac{3}{8}$	$4\frac{9}{16}$	10

When cans of other sizes are used, they should contain proportional weights of meat.

It should be remembered that a loss of weight almost invariably occurs when clams are processed, and due allowance should be made for this loss in weighing the clams into the can. It is believed that the experience of the packers is such that there will be no difficulty in making the proper allowance for shrinkage in processing, thus avoiding shortage from this cause. It may be said that the investigations made in the bureau indicate that the loss in weight in processing varies from about 5 to 15 per cent, the average loss being about 10 per cent of the weight of clams placed in the cans. The weights of drained clam meat should not fall below those given above, or, if a variation occurs, it should be as often above as below the weights specified.

Respectfully,

C. L. ALSBERG,
Chairman, Board of Food and Drug Inspection.

8. Weights of oyster meat required in cans of various sizes.

DEAR SIR: This notice is issued to inform the trade that pending further investigation the weights agreed upon by the canners at their meeting in Washington in October, 1912, will be regarded by the board as satisfactorily fulfilling the requirements of Food Inspection Decision No. 144. It is expected, however, that the "cut-out" weight of all cans shall conform with this agreement, and where a variation occurs it shall be as often above as below the agreed weight. The weights which have been agreed upon are given below.

Size of can.		Weight of drained oysters "cut out."
Diameter.	Height.	
Inches.	*Inches.*	*Ounces.*
$2\frac{1}{16}$	$2\frac{3}{4}$	3
$2\frac{1}{16}$	$3\frac{6}{16}$	4
$2\frac{1}{16}$	4	5
$3\frac{3}{8}$	$3\frac{15}{16}$	8
$3\frac{3}{8}$	$4\frac{9}{16}$	10

Respectfully,

C. L. ALSBERG,
Chairman, Board of Food and Drug Inspection.

4. The addition of cornstarch to canned corn.

DEAR SIR: The board has been advised that the following situation confronts the canners of corn in certain sections of the country:

The corn has ripened very late, and, in spite of the fact that the corn is of the finest quality and flavor, it lacks sufficient starch to pack properly on account of the fact that the liquids will separate from the solids in the canning, and, therefore, in order to produce a satisfactory product it is necessary to add cornstarch to the extent of 1 to 1½ per cent.

In the opinion of the board, on the facts as stated, and, if no inferiority of the corn is concealed, this addition would be permitted, under regulation 25, section 7(a), which states that "When a substance of a recognized quality commonly used in the preparation of a food or drug product is replaced by another substance not injurious or deleterious to health, the name of the substituting substance shall appear upon the label." If a product, prepared as indicated, were plainly labeled "Sweet Corn with added Starch," there would not appear to be any violation of the Food and Drugs Act.

It is, however, plain to the board that starch may be added to sweet corn in a manner whereby inferiority is concealed, and whereby water is added, which addition of starch would clearly constitute a violation of the act. The canners are, however, familiar with the conditions under which they are working, and the board is not; the canners should, therefore, be able to decide the proper course from the above statement of facts.

Very respectfully, A. S. MITCHELL,
Acting Chairman, Board of Food and Drug Inspection.

5. Henbane seed in shipments of poppy seed. Letter to branch laboratories.

Information has been received by the bureau that shipments of poppy seed are liable to contain a certain amount of henbane seed, which would render them injurious to health. This matter has been given consideration in Europe, and the director of the Pharmacological Institute in Berlin has stated as his opinion that 0.05 per cent of henbane would be injurious. The health authorities in Vienna have given instructions that this product shall not contain more than 1 henbane seed to 15,000 poppy seeds. The American consul at Stettin, Germany, has reported on this apparent adulteration of poppy seed and has refused to certify invoices unless the food declaration declares the poppy seed to be free from this form of adulteration.

I would accordingly request that your laboratory make examination of future shipments of poppy seed for the presence of henbane, and, in case any appreciable amount is found, I would request that the case be reported to Washington for consideration before any action is taken.

Respectfully, C. L. ALSBERG, *Chief.*

6. The labeling of mineral water salts for medicinal use. Letter to branch laboratories.

After examination of various products upon the market under the names Vichy Powder, Vichy Salt, Kissingen Salt, etc., and in view of the requirements of the Food and Drugs Act, the following conclusions have been reached as to the proper labeling of such products:

1. *Genuine natural salts.*—The terms Vichy Salt, Kissingen Salt, Carlsbad Salt, etc., without qualification, may be used only upon packages of salts obtained upon evaporation of the natural waters from these springs or localities. Any statement as to the quantitative relation of the salts to the original volume of water must be in accordance with the facts.

2. (*a*) *Artificial Vichy salt, artificial Kissingen salt, artificial Carlsbad salt.*—These are preparations recognized in the National Formulary and should corre-

spond to the formulæ therein. Any other substance or compound bearing any of these names without qualification is held to be adulterated and misbranded.

(*b*) *Artificial salts to represent other waters.*—In the case of artificial mineral salts not mentioned in the National Formulary, such as artificial Hunyadi salts, the product should be prepared in close imitation of the natural salt and according to the principles followed in the Formulary. Since the calcium and magnesium bicarbonates of the natural waters become insoluble upon evaporation, the alkalinity of the artificial water may be made equal to that of the natural by using sodium bicarbonate in the artificial salts to represent the alkalinity due to the calcium and magnesium bicarbonates. The medicinal effect of the magnesium may be obtained by using enough magnesium sulphate to furnish magnesium equivalent to the total magnesium of the water. A mixture of the salts present in the natural water in predominating amounts will produce a satisfactory artificial salt, but, in any case, if the water is named after any one or more of its ingredients, such ingredients must be present in the artificial water bearing that name.

(*c*) The directions for the amount of salt to be dissolved in a given amount of water should be such as to produce a water corresponding closely to the natural in strength, unless the directions specify that the resulting water will be half strength, double strength, etc.

3. *The effervescent and granular effervescent salts.*—Effervescent Artificial Vichy Salt, Effervescent Artificial Kissingen Salt, Effervescent Artificial Carlsbad Salt, Granular Effervescent Artificial Vichy Salt, Granular Effervescent Vichy Salt, Granular Effervescent Artificial Kissingen Salt, Granular Effervescent Artificial Carlsbad Salt, Effervescent Artificial ——— Salt, Granular Effervescent Artificial ——— Salt.

(*a*) The methods of preparing certain of these salts are given in the National Formulary. The principles laid down in the National Formulary for these salts should be followed in the preparation of other effervescent salts not recognized in the National Formulary. (See par. 2.)

(*b*) Omission of the word "effervescent" from the label of such effervescent or granular effervescent products is held to constitute misbranding.

4. *Effervescent or granular effervescent salts without sugar.*—When sugar is omitted in the preparation of effervescent artificial salts recognized in the National Formulary, the products may be called by the names of the waters they represent, provided the fact of omission of sugar is plainly indicated on the label.

5. *Omission of ingredients other than sugar.*—Ingredients, other than sugar, given in the National Formulary should not be omitted from an artificial mineral-water salt when such omission materially alters the nature of the product. It is held that the omission of such an ingredient would so alter the character of the product that it would not appear to come within the exemption provided under section 7, paragraph 1, in the case of drugs.

6. The above statements are chiefly in regard to the naming of the mineral-water salts. These products are subject to all the provisions of the Food and Drugs Act for drugs, regarding false and misleading statements as to the article or its ingredients and false and fraudulent claims as to its curative or therapeutic effects.

Importers should be notified of this ruling as to the proper labeling of mineral-water salts. Shipments offered for entry six months after the notice has been given and found to be adulterated or misbranded should be detained.

Respectfully, C. L. Alsberg, *Chief.*

7. The labeling of mixtures of bran and screenings.

DEAR SIR: We are of the opinion that the designation "bran and screenings" properly designates a mixture of bran with less than 50 per cent screenings. The designation does not, in our opinion, necessarily mean that the bran contains screenings in addition to screenings contained in the wheat from which the bran was made. It may, however, be used to cover a mixture of bran with screenings in excess of the screenings contained in the wheat from which the bran was prepared, provided that the screenings amount to less than 50 per cent of the mixture. Under the national law it is not necessary to state the percentage of screenings, but there is no objection to such a statement. If a statement is made, however, it must be in accordance with facts. It is our understanding that certain of the States under their State feeding stuff laws will require a statement of the percentage of screenings. * * *

We are of the opinion that the term "wheat bran with mill-run screenings" correctly describes a mixture of wheat bran with the entire mill run of screenings. Such a mixture as this is supposed to contain the *whole* mill run of screenings, not a portion of the same, and is not supposed to contain screenings in excess of the screenings in the wheat from which the bran was prepared.

We are of the opinion that the term "wheat bran with screenings not exceeding mill run" correctly describes a mixture of bran with the whole mill run of screenings or bran with a portion of the mill run of screenings, provided that such portion is representative of the screenings and is not an inferior portion thereof. The designation "wheat bran with screenings not exceeding mill run" would not properly describe a mixture of wheat bran with an inferior portion of the mill run of screenings added.

The same principles that apply to labeling mixtures of bran and screenings also apply to labeling mixtures of other flour-mill feeds and screenings.

Respectfully, C. L. ALSBERG,
Chairman, Board of Food and Drug Inspection.

8. The labeling of poultry foods containing charcoal or grits.

DEAR SIR: Numerous poultry foods labeled as "Chick Feed," "Poultry Food," etc., have been examined by this department and have been found to contain charcoal or grits, or both. These substances have no real food value, and while the board does not question the usefulness of limited amounts of these ingredients in such products, it feels that the name "food" or "feed" should not be applied without qualification to products containing them.

Some such phrase as "Chick feed with grits and charcoal" would appear to be satisfactory.

Respectfully, C. L. ALSBERG, *Chief.*

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT.

[Given pursuant to section 4 of the Food and Drugs Act.]

2763. Adulteration of cream. U. S. v. John Ball. Plea of guilty. Fine, $10. (F. & D. No. 188–c.)

On July 16, 1913, the United States Attorney for the District of Columbia, acting upon a report by the Health Officer of said District, authorized by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against John Ball, Frederick, Md., alleging shipment by said defendant, in violation of the Food and Drugs Act, on June 21, 1913, from the State of Maryland into the District of Columbia, of a quantity of cream which was adulterated. The product bore no label.

Adulteration of the product was alleged in the information for the reason that a valuable constituent thereof, to wit, butter fat, had been left out and abstracted in whole and in part.

On July 16, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 5, 1914.*

2764. Adulteration of cream. U. S. v. Alexander F. Pilcher. Plea of guilty. Fine, $10. (F. & D. No. 189–c.)

On July 21, 1913, the United States Attorney for the District of Columbia, acting upon a report by the Health Officer of said District, authorized by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against Alexander F. Pilcher, Midland, Va., alleging shipment by said defendant, in violation of the Food and Drugs Act, on May 6 and 10, 1913, from the State of Virginia into the District of Columbia, of a quantity of cream which was adulterated. The product bore no label.

Adulteration of the product was alleged in the information for the reason that a valuable constituent thereof, to wit, butter fat, had been left out and abstracted in whole and in part.

On July 21, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 5, 1914.*

2765. Adulteration of cream. U. S. v. Charles C. Mainhart. Plea of guilty. Fine, $10. (F. & D. No. 190–c.)

On July 25, 1913, the United States Attorney for the District of Columbia, acting upon a report by the Health Officer of said District, authorized by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against Charles C. Mainhart, Barnesville, Md., alleging shipment by said defendant, in violation of the Food and Drugs Act, on May 29, 1913,

from the State of Maryland into the District of Columbia, of a quantity of cream which was adulterated. The product bore no label.

Adulteration of the product was alleged in the information for the reason that a valuable constituent thereof, to wit, butter fat, had been left out and abstracted in whole and in part.

On July 25, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 5, 1914.*

2766. Adulteration of cream. U. S. v. Elias D. King. Plea of guilty. Fine, $5. (F. & D. No. 191–c.)

On August 2, 1913, the United States Attorney for the District of Columbia, acting upon a report by the Health Officer of said District, authorized by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against Elias D. King, Germantown, Md., alleging shipment by said defendant, in violation of the Food and Drugs Act, on June 24, 1913, from the State of Maryland into the District of Columbia, of a quantity of cream which was adulterated. The product bore no label.

Adulteration of the product was alleged in the information for the reason that a valuable constituent thereof, to wit, butter fat, had been left out and abstracted in whole and in part.

On August 2, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $5.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 5, 1914.*

2767. Misbranding of whisky. U. S. v. 11 Barrels of Whisky. Decree of condemnation by consent. Goods released on bond. (F. & D. No. 351. S. No. 153.)

On January 25, 1910, the United States Attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 11 barrels of whisky remaining unsold in the original unbroken packages and consigned to Thomas L. Harris, New Orleans, La., alleging that the product had been shipped by Ulman, Boykin & Co., Baltimore, Md., and transported from the State of Maryland into the State of Louisiana, during the month of January, 1909, and charging misbranding in violation of the Food and Drugs Act. Ten barrels of the product were labeled: "Lucy Hinton Whisky, guaranteed under the National Pure Food and Drugs Act, Ulman, Boykin & Company." One barrel was labeled "My Maryland Whisky guaranteed under the National Food and Drugs Act, Ulman, Boykin & Company."

Misbranding of the product was alleged in the libel for the reason that it was branded in a manner to indicate that it was straight whisky, whereas, in truth and in fact, it was not straight whisky, but was a rectified article combined with grain distillate.

On January 28, 1909, the said Ulman, Boykin & Co., claimant, having filed an answer and claim for the product, a decree of condemnation and forfeiture was entered and it was ordered by the court that the product be released and delivered to said claimant upon payment of the costs of the proceedings and the execution of bond in the sum of $1,000 in conformity with section 10 of the Act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 5, 1914.*

2768. Adulteration and misbranding of blackberry cordial. U. S. v. 20 Kegs of Blackberry Cordial. Decree of condemnation by default. Goods released on bond. (F. & D. No. 1210. S. No. 423.)

On February 2, 1910, the United States Attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 20 kegs of so-called blackberry cordial remaining unsold in the original unbroken packages and in the possession of Rothchild Bros., a corporation, Portland, Oreg., alleging that the product had been shipped on or about January 8, 1910, by E. G. Lyons & Raas Co., San Francisco, Cal., and transported from the State of California into the State of Oregon, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Blackberry Flavor Cordial," and "Blackberry Cordial contains one-tenth of one per cent Benzoate of soda, artificially colored, and sweetened with saccharine, and glucose."

Adulteration of the product was alleged in the libel for the reason that synthetic ethers and prohibited coal-tar dye were wholly or in part substituted for blackberry juice or blackberry flavoring and that there was mixed therewith said prohibited coal-tar dye in a manner whereby the inferiority of the product was concealed, and there was added thereto a deleterious ingredient which might and did render said liquor injurious to health, to wit, said prohibited coal-tar dye. Misbranding was alleged for the reason that the labels, stamps, and brands on the product were false and misleading in this: That the word "Flavor" therein was so placed as to be difficult of discovery to the ordinary person or persons proposing to purchase any of the said liquor, and, further, in that said liquor purported to be a product manufactured from blackberries or blackberry juice, when, in truth and in fact, the same was not manufactured from blackberries or blackberry juice, but was a product composed of water, alcohol, synthetic ethers, sugar, saccharine, and glucose, and colored with a prohibited coal-tar dye and preserved with benzoate of soda, and neither blackberries nor any product of blackberries entered into the manufacture thereof.

On May 31, 1910, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered. The said Rothchild Bros., pursuant to the judgment of condemnation and forfeiture, having paid the costs of the proceeding and executed a bond in the sum of $500 in conformity with section 10 of the Act, it was ordered by the court that the product be released and delivered to said claimant.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 5, 1914.*

2769. Adulteration and misbranding of orange extract. U. S. v. John Burnett & Co. Plea of guilty. Fine, $25. (F. & D. No. 1336. I. S. No. 9055-b.)

On April 13, 1910, the United States Attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against John Burnett & Co., a corporation, Boston, Mass., alleging shipment by said company, in violation of the Food and Drugs Act, on May 8, 1909, from the State of Massachusetts into the State of Pennsylvania, of a quantity of so-called orange extract which was adulterated and misbranded. The product was labeled: "John Burnett's Pure Extract of Orange * * * Prepared by John Burnett & Co., 37 Central St., Boston, U. S. A."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Specific gravity (15.6° C./15.6° C.),

0.8660; alcohol (per cent by volume), 76.64; methyl alcohol (per cent by volume), none; solids, 0.07 per cent; oil (per cent by volume): (a) By polarization, factor 5.3, 2.29, (b) by precipitation, 2.5; index of refraction of oil at 20° C., 1.4718; volume: Bottle 1, 4 fluid ounces; bottle 2, 3.9 fluid ounces. Adulteration of the product was alleged in the information for the reason that a substance, that is to say, a dilute extract of orange, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength; and, further, in that a dilute extract of orange had been substituted in part for the said extract of orange. Misbranding was alleged for the reason that there was upon the container of the product a label upon which appeared a statement regarding the substance, to wit, "John Burnett's Pure Extract of Orange," which statement was false and misleading in a certain particular, that is to say, in the particular in said statement, "Pure Extract of Orange," whereas, in truth and in fact, it was not a pure extract of orange, but was a dilute extract of orange. Misbranding was alleged further for the reason that the product was offered for sale and was sold under the distinctive name of another article, that is to say, under the name of a pure extract of orange, whereas, in truth and in fact, it was not a pure extract of orange. Misbranding was alleged for the further reason that there was upon the containers of the product a label upon which appeared a statement regarding the substance, to wit, the statement "John Burnett's Pure Extract of Orange," which said statement would lead a purchaser to believe that the product was a pure extract of orange, whereas, in truth and in fact, it was not a pure extract of orange but a dilute extract of orange.

On May 9, 1910, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 6, 1914.*

2270. Adulteration of milk. U. S. v. F. A. Burnham. Plea of guilty. Fine, $40. (F. & D. No. 1357. I. S. No. 14659–b.)

On June 8, 1910, the United States Attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against F. A. Burnham, Hampton, Ct., alleging shipment by said defendant in violation of the Food and Drugs Act on November 13, 1909, from the State of Connecticut into the State of Massachusetts of a quantity of milk which was adulterated.

Examination of a sample of the product by the Bureau of Chemistry of this Department showed the presence of an excessive number of bacteria. Adulteration of the product was alleged in the information for the reason that it consisted in part of a filthy, decomposed, and putrid animal substance.

On June 24, 1910, the defendant entered a plea of guilty to the information and the court imposed a fine of $40.

C. F. Marvin, *Acting Secretary of Agriculture.*

Washington, D. C., *January 6, 1914.*

2771. Adulteration of milk. U. S. v. G. E. Hillsgrove. Plea of nolo contendere. Fine, $10. (F. & D. No. 1519. I. S. No. 14636–b.)

On September 2, 1910, the United States Attorney for the District of New Hampshire, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against G. E. Hillsgrove, Barnsted, N. H., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about November 12, 1909, from the State of New Hampshire into the State of Massachusetts of a quantity of milk which was adulterated. The product was not labeled.

Examination of a sample of the product by the Bureau of Chemistry of this Department showed the presence of 1,200,000 bacteria per cubic centimeter. Adulteration of the product was alleged in the information for the reason that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance. On November 1, 1910, the defendant entered a plea of nolo contendere to the information and the court imposed a fine of $10.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 6, 1914.*

2772. Adulteration of milk. U. S. v. C. Jowders. Plea of nolo contendere. Fine, $10. (F. & D. No. 1520. I. S. No. 13439-b.)

On September 2, 1910, the United States Attorney for the District of New Hampshire, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against C. Jowders, Greenville, N. H., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about November 12, 1909, from the State of New Hampshire into the State of Massachusetts of a quantity of milk which was adulterated. The product was not labeled.

Examination of a sample of the product by the Bureau of Chemistry of this Department showed the presence of 100,000,000 bacteria per cubic centimeter. Adulteration of the product was alleged in the information for the reason that it consisted in whole or part of a filthy, decomposed, or putrid animal substance. On November 1, 1910, the defendant entered a plea of nolo contendere to the information and the court imposed a fine of $10.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, *January 7, 1914.*

2773. (Supplement to Notice of Judgment No. 1020.) Misbranding of champagne. U. S. v. Ernest Schraubstadter and Emile A. Groezinger (A. Finke's widow). Judgment of conviction in the District Court affirmed by the Circuit Court of Appeals, Ninth Circuit. (F. & D. Nos. 1596, 1597 and 1601. I. S. Nos. 4192-B, 4193-B and 12230-B.)

On April 5, 1911, Ernest Schraubstadter and Emile A. Groezinger, doing business in San Francisco, California, under the name of A. Finke's Widow, were convicted in the District Court of the United States for the Northern District of California under an indictment charging shipments in violation of the Food and Drugs Act from the State of California into the States of Washington and Arizona of so-called champagne which was misbranded, and fined $100 each. Thereafter the case was taken up by defendants on a writ of error to the Circuit Court of Appeals for the Ninth Circuit for review. On October 7, 1912, the case having come on for hearing on the writ of error before the said Circuit Court of Appeals (Gilbert and Ross, Circuit Judges; Wolverton, District Judge), the judgment of conviction in the lower court was affirmed as will more fully appear from the following decision by the court (Wolverton, D. J.):

(1) The first objection interposed by defendants challenges the sufficiency of the indictment. The alleged misbranding was preliminarily investigated by the proper officer of the Department of Agriculture, but it will be seen that the fact of such investigation is not set forth in the indictment, nor does it show that any notice was given by the Secretary of Agriculture to the defendants, notifying them of the violation of said act, nor that defendants were thereby afforded an opportunity to present evidence or to be heard. For these and other grounds of like nature it is contended that the indictment is insufficient. In other words, it is argued that the indictment should set forth the doing of the things required to be done under sections 4 and 5 of the act in question. The very contention has been set at rest to the contrary in the case of United States v. Morgan, 222 U. S. 274, 32 Sup. Ct. 81, 56 L. Ed. 198. The defendants in that case added mineral salts to water drawn from the water supply in New York City and charging it with carbonic acid, bottled and sold it as "Imperial

Spring Water." An invoice of this they sold and shipped into New Jersey, and were indicted for shipping misbranded goods in interstate commerce. The indictment there, as here, did not set forth the facts the want of which it is claimed renders the present one objectionable. The court held the indictment sufficient, however, reversing the judgment of the court below to the contrary. The court says:

"The provision as to the hearing is administrative, creating a condition where the district attorney is compelled to prosecute without delay. When he receives the Secretary's report, he is not to make another and independent examination, but is bound to accept the finding of the department that the goods are adulterated or misbranded, and that the party from whom they had been obtained held no guaranty. But the fact that the statute compels him to act in one case does not deprive him of the power voluntarily to proceed in that and every other case under his general powers. If, for any reason, the Executive Department failed to report violations of this law, its neglect would leave untouched the duty of the district attorney to prosecute 'all delinquents for crimes and offenses cognizable under the authority of the United States.' Rev. Stats. secs. 771, 1022 (U. S. Comp. St., 1901, pp. 601, 720). So an improper finding by the department would no more stay the grand jury than an order of discharge by a committing magistrate after an ordinary preliminary trial; for the statute contains no expression indicating an intention to withdraw offenses under this act from the general powers of the grand jury, who are diligently to inquire and true presentment make of all matters called to their attention by the court, or that may come to their knowledge during the then present service."

The indictment in the case at bar must be held sufficient.

(2) It is suggested that the evidence indisputably shows (and the entire evidence is in the record) that the defendants used the labels in good faith, believing that they had a perfect right to call their wine "California Champagne"; that it was sold as such without objection, and had been known to the trade for many years under that designation. The labels, however, which are evidentiary of the misbranding, contain no such designation or legend as "California Champagne", and the trial court found that they were misleading, and that the dress on each of the packages indicated a design to create in the minds of the consumers the impression that they were "purchasing a foreign and not a domestic product." Unquestionably there is evidence in the record tending to support this conclusion, and, being a question of fact, this court will take no note as respects the weight of the evidence.

Three other contentions are made: First, that the judgment is void, because it is single, and not upon each count, and for $300, an amount in excess of the maximum fine for the first offense; second, that the indictment was against the defendants as an association, and hence a single fine should have been imposed; and, third, that there was no separate conviction upon each count of the indictment, hence a single judgment should have been imposed, which should not have exceeded by fine $200. We will answer the second first, and then the third.

(3) The indictment is against "Ernest Schraubstadter and Emile A. Groezinger, doing business in the city and county of San Francisco under the firm name and style of A. Finke's Widow, hereinafter called the defendants." The very statement shows an intendment to indict the defendants personally, and not the firm as a firm. The recitation "doing business" in San Francisco, etc., is but descriptive of the persons composing the firm, and it would be exceedingly technical to hold that such an indictment was an indictment of the firm, and not of the persons composing it. An indictment so drawn will be treated as an indictment of the individual members of the firm, and not of the firm under its firm name. State v. Powell, 3 Lea (Tenn.) 164. The indictment here should be treated likewise.

(4) The form of conviction is: "Guilty as charged in the indictment." This was a conviction of the three offenses charged by the three counts of the indictment. In Ballew v. United States, 160 U. S. 187, 16 Sup. Ct. 263, 40 L. Ed. 388, the defendant was indicted by two counts; one charging him with wrongfully withholding from a pensioner part of the pension allowed and due her, and the other with demanding and receiving as agent a greater compensation for services in prosecuting the claim for pension than is provided by law, and the jury returned a general verdict of guilty. Speaking of the verdict, the court says:

"That in a case such as this a general verdict is proper, and imports of necessity a conviction as to both crimes, is settled"—citing Claassen v. United States, 142 U. S. 140, 146, 12 Sup. Ct. 169, 35 L. Ed. 966.

The verdict in the case at bar was therefore tantamount to a conviction upon each of the three counts contained in the indictment. It is beyond controversy that each of said counts charges a separate and distinct offense, based upon altogether different acts of the defendants, but of such character as were properly included in one indictment. The offenses charged are shipping or causing to be shipped misbranded goods in interstate commerce.

(5) This brings us back to the first of the three contentions stated. The form of the judgment is that: "Each of said defendants pay a fine of one hundred (100) dollars, on each count of the indictment, consisting of three counts to wit, the sum of three hundred (300) dollars each". The judgment could not be more specific, declarative of a purpose of imposing a fine of $100 on each defendant under each count of the indictment; the maximum fine for the first offense being $200. Act June 30, 1906, c. 3915, sects. 2, 34 Stat. 768 (U. S. Comp. St. Supp. 1911, p. 1354). So that the fine imposed was not excessive. The stating of the aggregate of the fines to be $300 did not invalidate the judgment. The case of United States v. Peeke, 153 Fed. 166, 82 C. C. A. 340, 12 L. R. A. (N. S.) 314, does not help the defendants' contention. It relates to cumulative sentences of imprisonment. In this case it is a sentence by fine, and when properly analyzed, it is not even cumulative, as a fine of $100 is imposed upon each count.

Affirmed. C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *December 29, 1913.*

2774. (Supplement to Notice of Judgment No. 2332.) Adulteration of tomato pulp. (F. & D. No. 4291. S. No. 1458.)

On February 27, 1913, a notice of judgment was issued in the above-cited cases in which it was made to appear that the product was found in the possession of Lichtenstein & Hirsch, Savannah, Ga. The product was actually in the possession of the South Atlantic Packing & Provision Company, Savannah, Ga. C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 8, 1914.*

2775. Adulteration of milk. U. S. v. George White. Plea of guilty. Fine, $10. (F. & D. No. 192–c.)

On October 4, 1913, the United States Attorney for the District of Columbia, acting upon a report by the Health Officer of said District, authorized by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against George White, Alexandria, Va., alleging shipment by said defendant in violation of the Food and Drugs Act on September 9, 1913, from the State of Virginia into the District of Columbia of a quantity of milk which was adulterated.

Adulteration of the product was alleged in the information for the reason that a certain substance, to wit, water, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength.

On October 4, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $10.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 9, 1914.*

2776. Adulteration of cream. U. S. v. John H. Heffner. Plea of guilty. Fine, $5. (F. & D. No. 193–c.)

On October 11, 1913, the United States Attorney for the District of Columbia, acting upon a report by the Health Officer of said District, authorized by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against John H. Heffner, Jefferson, Md., alleging shipment by said defendant in violation of the Food and Drugs Act from the State of Maryland into the District of Columbia, on August 29, 1913, of a quantity of cream which was adulterated.

Adulteration of the product was alleged in the information for the reason that a valuable constituent of the article had been left out and abstracted in whole and in part.

On October 11, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $5.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 9, 1914.*

2777. Adulteration of milk. U. S. v. George E. Smith. Plea of guilty. Fine, $10. (F. & D. No. 194–c.)

On September 18, 1913, the United States Attorney for the District of Columbia, acting upon a report by the Health Officer of said District, authorized by the Secretary of Agriculture, filed in the Police Court of the District aforesaid an information against George E. Smith, Frederick, Md., alleging shipment by said defendant in violation of the Food and Drugs Act on July 22, 1913, from the State of Maryland into the District of Columbia, of a quantity of milk which was adulterated.

Adulteration of the product was alleged for the reason that a certain substance, to wit, water, had been mixed and packed with the product so as to reduce, lower, and injuriously affect its quality and strength.

On September 18, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $10.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 9, 1914.*

2778. Adulteration of frozen eggs. U. S. v. 273 Cans of Frozen Eggs. Inquest by court and jury. Verdict for the United States. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 1215. S. No. 431.)

On February 3, 1910, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 273 cans of frozen liquid eggs remaining unsold in the original unbroken packages and owned by William Rubin, New York, N. Y., alleging that the product had been shipped from the State of New Jersey into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The product bore no label.

Adulteration of the product was alleged in the libel for the reason that the cans aforesaid contained an article of food, to wit, liquid eggs, to which had been added and which contained a poisonous substance which might render it injurious to health, to wit, formaldehyde. Adulteration was alleged for the reason that the cans aforesaid contained an article of food, to wit, liquid eggs, which being animal substance, were in whole or in part filthy, putrid, and decomposed. (No allegation was made by the Department of Agriculture that the product contained formaldehyde or that it might render the product injurious to health.)

Thereafter, a claim and answer having been filed by said William Rubin, on October 22, 1913, the issues having come on to be heard before the court and jury and said claimant having failed to appear, the court ordered an inquest to be taken and the United States having submitted its proof, the court directed a verdict in favor of the United States, and a verdict was accordingly rendered pursuant to said directions. Thereupon, upon motion of the United States, a decree of condemnation and forfeiture was entered and it was ordered by the court that the product should be destroyed by the United States marshal and that the cost of the proceedings, amounting to $67.98, be assessed against said claimant.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 9, 1914.*

2779. Adulteration and misbranding of lemon extract. U. S. v. Selig Weinberg (Crown Mfg. Co.). Plea of guilty. Fine, $5. (F. & D. No. 1609. I. S. No. 10375–B.)

On May 28, 1912, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States, for said district an information against Selig Weinberg, doing business under the name and style of the Crown Manufacturing Company, New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act on March 8, 1910, from the State of New York into the State of New Jersey, of a quantity of lemon extract which was adulterated and misbranded. The product was labeled: "Lemon Extract. Only the Finest Oil of Lemon with Alcohol Colored with a Little Harmless Color Guaranty Legend Serial No. 4664 Crown Manufacturing Co., New York St. Louis."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Lemon oil, none; citral, 0.06 per cent; alcohol, per cent by volume, 17.16; colored with Naphthol Yellow S.

Adulteration of the product was alleged in the information for the reason that a highly dilute, terpeneless extract and artificial coloring matter were mixed and packed with the article so as to reduce and lower and injuriously affect its quality and strength and in that said highly dilute terpeneless extract and artificial coloring matter had been substituted for the genuine product, lemon extract, and in that said article of food was colored with Naphthol Yellow S in a manner whereby its inferiority was concealed.

Misbranding was alleged for the reason that the label set forth above regarding the article and the ingredients and substances contained therein was false and misleading, and it was labeled so as to deceive and mislead the purchaser thereof in that said label would indicate that the article was a lemon extract, whereas, in truth and in fact, it was not a lemon extract, but was a product consisting of a highly dilute terpeneless extract without any oil of lemon and artificially colored with Naphthol Yellow S.

On October 28, 1912, the defendant entered a plea of guilty to the information and the court imposed a fine of $5.

C. F. Marvin, *Acting Secretary of Agriculture.*

Washington, D. C., *January 10, 1914.*

2780. Adulteration of frozen egg whites and egg yolks and alleged adulteration of frozen whites of eggs. U. S. v. 211 Cans of Frozen Whites of Eggs and 215 Cans of Frozen Egg Whites and Egg Yolks. Default decree of condemnation, forfeiture, and destruction as to 215 cans of frozen egg whites and egg yolks; 211 cans of frozen whites released to claimant. (F. & D. No. 1679. S. No. 591.)

On July 23, 1910, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 211 cans of frozen whites of eggs and 215 cans of frozen egg whites and egg yolks, remaining unsold in the original unbroken packages and owned by the European Egg Co., New York, N. Y., alleging that the product had been shipped from the State of Nebraska into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The product bore no label.

Adulteration of the product was alleged in the libel for the reason that each of said 211 cans contained an article of food, to wit, frozen whites of eggs, which, being animal substance, were in whole or in part filthy, putrid, and decomposed; and each of said 215 cans contained an article of food, to wit, frozen egg whites and egg yolks mixed, which, being an animal substance, were in whole or in part filthy, putrid, and decomposed.

On October 22, 1913, the European Egg Co., claimant, having filed its claim and answer, but having failed to appear when the case was called for a hearing, and the court having ordered an inquest and the United States having submitted proof in support of the allegations as to the 215 cans and having waived all claim for forfeiture as to the 211 cans, and the court having directed a verdict in favor of the United States condemning the 215 cans and a verdict having been rendered pursuant to said direction, a judgment of condemnation and forfeiture was entered as to the 215 cans and it was ordered by the court that the product contained therein should be destroyed by the United States marshal and that the costs of the proceedings, amounting to $61.81, be assessed against said claimant. It was further ordered that the 211 cans of frozen whites of eggs be released to said claimant.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 21, 1914.*

2781. Adulteration of frozen eggs. U. S. v. 194 Cans of Frozen Eggs. Default decree of condemnation, forfeiture, and destruction. Costs assessed against European Egg Co., claimant. (F. & D. No. 1698. S. No. 594.)

On July 28, 1910, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 151 cans, each containing approximately 25 pounds of frozen eggs, and 43 cans, each containing approximately 50 pounds of frozen eggs, remaining unsold in the original unbroken packages and owned by the European Egg Co., New York, N. Y., alleging that the product had been shipped on or about July 15, 1910, from the State of Nebraska into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The product bore no label.

Adulteration of the product was alleged in the libel for the reason that each of the 151 cans and 43 cans contained an article of food, to wit, frozen eggs, which, being an animal substance, were in whole or in part filthy, putrid, and decomposed.

On October 22, 1913, the said European Egg Co., claimant, having filed its claim and answer, but having failed to appear when the issue came on to be heard before the court, the court ordered an inquest to be taken, and the United States having submitted proof in support of the allegations and the court having directed a verdict in favor of the United States, and such verdict having been duly rendered pursuant to the directions of the court, upon motion of the United States Attorney, a judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be destroyed by the United States marshal and that the costs of the proceedings, amounting to $66.12, be assessed against said claimant.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *January 21, 1914.*

2782. Misbranding of headache powders. U. S. v. H. L. Humphrey. Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 1714. I. S. No. 17411-b.)

On April 5, 1911, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against H. L. Humphrey, Toledo, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about April 18, 1910, from the State of Ohio into the State of Michigan, of a quantity of headache powders which were misbranded. The product was labeled: "10 c Spohn's Harmless Headache Powders. Con-

tains 240 grains acetanilid to the ounce. Prepared by H. L. Humphrey, manufacturer of Reliable Remedies, Toledo, O. Never accept a dealers substitute. Directions: Place a powder upon the tongue and swallow with a little water. Repeat in half an hour if necessary. Remain quiet a few minutes after taking the powder."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Caffein, 4.16 per cent; acetanilid, 49.21 per cent (equivalent to 215 grains per ounce); sodium bicarbonate present; citric acid indicated. Misbranding of the product was alleged in the information for the reason that its analysis showed it to contain and to consist essentially of caffein and acetanilid, and the package so labeled and branded as hereinbefore set forth was so labeled and branded as to mislead the purchaser, inasmuch as the said label and brand would mislead the purchaser and consumer to believe that it was harmless, whereas, in fact, said product and substances of which same was composed were dangerous drugs.

On November 18, 1912, the defendant entered a plea of nolo contendere to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 24, 1914.*

2783. Adulteration of tomato catsup. U. S. v. New Wooster Preserving Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 1743. I. S. No. 17415–b.)

On April 3, 1911, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the New Wooster Preserving Co., a corporation, Wooster, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 22, 1910, from the State of Ohio into the State of Michigan, of a quantity of tomato catsup which was adulterated. The product was labeled: "Ideal Brand Tomato Catsup. Formula, etc:—1/10 of 1% Benzoate of Soda—Guarantee, etc., Mfg. by the New Wooster Preserving Co., Wooster, Ohio."

Microscopical examination of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Yeasts and spores, 51 per one-sixtieth cmm; bacteria, numerous, estimated at 96,000,000 per cc; about three-fourths of the microscopic fields had mold filaments. A large amount of débris present. Adulteration of the product was alleged in the information for the reason that it consisted in whole or in part of a filthy and decomposed substance.

On May 16, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 24, 1914.*

2784. Alleged misbranding of cheese. U. S. v. Muscatine French Cheese Co. Tried to the court. Judgment for defendant. (F. & D. No. 1762. I. S. Nos. 19611, 19612, 19613–b.)

On October 4, 1910, the United States Attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Muscatine French Cheese Co., a corporation, of Wilton Junction, Iowa, alleging shipment by said company, in violation of the Food and Drugs Act, on June 3, 1910, from the State of Iowa into the State of Texas, of a quantity of cheese of three brands which was alleged to have been misbranded. One brand of the product

was labeled: "Fruhstucks Kashcen Circle X Brand"; one brand was labeled: "Neufchatel type Cheese. Circle X Brand"; and one was labeled: "Schloss Kaese" "The Muscatine French Cheese Co. Trade X Mark Wilton, Iowa."

Examination of samples of the product in the Bureau of Chemistry of this Department showed that it was a domestic product. Misbranding of the product was alleged in the information for the reason that the branding and labeling thereof were false and misleading; that on the label on the brand of cheese labeled "Fruhstucks Kaschen Circle X Brand" the words "Fruhstucks Kaschen" were conspicuously displayed and conveyed the impression that the cheese was a foreign product; that on the label on the brand of cheese labeled "Neufchatel type Cheese. Circle X Brand", the words "Neufchatel Cheese" appeared in a large and attractive type which conveyed the impression that it was a foreign cheese, a product of France, and the fact that the word "type" appeared after the word "Neufchatel" did not lessen that impression for the reason that the word "type" was printed so small as entirely to escape attention; that on the label on the brand of cheese labeled "Schloss Kaese" "The Muscatine French Cheese Co. Trade X Mark Wilton, Iowa.", the words "Schloss Kaese" appeared across the label in large and conspicuous blue letters and conveyed the impression that the cheese was a foreign product; that the remainder of the label which stated the name and address of the manufacturer was printed in subdued green and the size of the type was not such as to lessen the above impression; that the above brands, and each and all of them, were in truth and in fact not cheese of foreign manufacture but were each and all of domestic manufacture, and the labeling of the same as aforesaid was calculated to, intended to, and did mislead and deceive the purchaser thereof in violation of the act aforesaid.

On February 1, 1911, the defendant company by its secretary and treasurer made answer to the information, denying the allegations thereof as to the misbranding of the product. On April 28, 1911, the case having come on for trial before the court upon the information and answer of the defendant, the court rendered judgment for the defendant. No written opinion was given by the court in this case.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 27, 1914.*

2785. Adulteration and misbranding of vinegar. U. S. v. Board, Armstrong & Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 1767. I. S. No. 17838-b.)

On March 11, 1911, the United States Attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Board, Armstrong & Co., Corporation, incorporated, Alexandria, Va., alleging shipment by said company, in violation of the Food and Drugs Act, on or about January 11, 1910, from the State of Virginia into the State of Colorado, of a quantity of so-called apple cider vinegar which was adulterated and misbranded. The product was labeled: "Board, Armstrong & Co. White House Pure Apple Cider Vinegar Alexandria, Va."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Alcohol (per cent by volume)	0.73
Solids (grams per 100 cc)	1.64
Reducing sugars direct (grams per 100 cc)	.56
Reducing sugars invert (grams per 100 cc)	.63
Polarization, direct at 20° C	1.2° V.

Total ash (grams per 100 cc)	0.27
Alkalinity of water-soluble ash (cc N/10 acid per 100 cc)	23.0
Total P_2O_5 (mg per 100 cc)	22.6
Total acids, as acetic (grams per 100 cc)	4.02
Fixed acids as malic (grams per 100 cc)	.064
Total color, Lovibond scale, ¼-inch cell (degrees)	7.
Color removed by fuller's earth (per cent)	57.

Adulteration of the product was alleged in the information for the reason that a certain substance, that is to say, a substance consisting of a mixture of a foreign material high in reducing sugars and dilute acetic acid, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength and had been substituted in part for it. Misbranding was alleged for the reason that the product was labeled and branded so as to deceive and mislead the purchaser and bore a statement which was false and misleading, that is to say, that the article was not, as said label represented, "Pure Apple Cider Vinegar."

On October 23, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 28, 1914.*

S. R. A.—Chem. 2. Issued April 2, 1914.

U. S. DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.
C. L. ALSBERG, Chief of Bureau.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

FEBRUARY, 1914.

GENERAL INFORMATION.

1. Reorganization of the food and drug inspection work of the Bureau of Chemistry.

The food and drug inspection work of the Bureau of Chemistry has been reorganized by dividing the country into three districts—Eastern, Central, and Western. The branch laboratories of the bureau have been divided among these districts as follows:

Eastern District.	Central District.	Western District.
Washington Laboratory.	Chicago Laboratory.	San Francisco Laboratory.
New York Laboratory.	St. Paul Laboratory	Seattle Laboratory.
Boston Laboratory.	St. Louis Laboratory.	Denver Laboratory.
Philadelphia Laboratory.	Cincinnati Laboratory.	Honolulu Laboratory.
Buffalo Laboratory.	New Orleans Laboratory.	
Savannah Laboratory.		
San Juan Laboratory.		

The dividing line between the Eastern and Central Districts runs along the western boundaries of Pennsylvania and West Virginia and follows State lines south, including Georgia and Florida in the Eastern District. The dividing line between the Central and Western Districts runs south on the State lines, following the eastern boundary of Montana, including the whole of Colorado in the Western District and the whole of Texas in the Central District.

The laboratories at Pittsburgh, Kansas City, Nashville, Omaha, and Portland, Oreg., will be closed about April 1.

Mr. W. G. Campbell, formerly chief inspector of the bureau, has been appointed chief of the Eastern District, with headquarters at Washington, D. C.

Mr. L. M. Tolman, formerly chief of the Food Inspection Division of the bureau, has been appointed chief of the Central District, with headquarters in Chicago.

Mr. B. R. Hart, formerly chief of the Cincinnati Laboratory, has been appointed chief of the Western District, with headquarters in San Francisco.

The district chiefs will have general supervision over all employees and all work in connection with the enforcement of the Food and Drugs Act in their respective territories, subject to the approval of the chief of the bureau.

The reorganization will become effective on the first of March.

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated Dec. 26, 1913, this publication will be issued monthly by the Bureau of Chemistry. It covers the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution will be limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

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2. Analysis of samples for private parties.

The department receives numerous requests for the analysis of waters, foods, drugs, insecticides, and other miscellaneous products. To comply with all the requests received would make a great drain on appropriations for other purposes and impede official work. No appropriation has been provided for this purpose, and the department, therefore, will not be in a position to make analyses for private parties.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—QUOTED FROM CORRESPONDENCE.[1]

9. Instructions to food and drug inspectors regarding meat inspection. [Letter based on the report of a joint committee, representing the Bureau of Animal Industry and the Bureau of Chemistry, appointed to devise plans for cooperation in meat inspection. These instructions have been approved by the chiefs of the two bureaus.]

Dear Sir: Since the abrogation of regulation 39, as announced in F. I. D. 151, it becomes the duty of food and drug inspectors to include meat and meat food products in those classes of foods and drugs over which they have been required heretofore to maintain supervision under the law.

The principal, if not the exclusive charge for prosecutions against the sale and shipment of meat, will be under paragraph 6 of section 7 of the act, which states that an article shall be deemed to be adulterated:

If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

The application of this law to meat and meat food products will be effected by cooperation between the Bureau of Animal Industry and the Bureau of Chemistry. Such cooperative work may be classified under two general heads:

(1) Those cases where evidence of sale and interstate delivery is obtained by food and drug inspectors and examination of the product made by B. A. I. inspectors.

(2) Those cases where both the evidence of sale and shipment and the examination are made by officials of the Bureau of Animal Industry.

It is anticipated that most of the prosecutions will be brought under the first classification, permitting thereby to employees of both bureaus the performance of those duties only with which they are now familiar.

Upon locating shipments which appear to be violative of the Food and Drugs Act, arrange at once for the delivery of samples to the nearest B. A. I. official in charge.

The character of the shipment and its location may frequently make it practicable and advisable to have the entire consignment rather than a sample inspected. The judgment of the B. A. I. officer will determine this. A written report of the examination will be submitted to you and it should specify in what particular the product is in violation of the above-quoted paragraph, that is, in what manner "filthy," to what extent "decomposed," and in what respect "unfit for food," or, to use the terms of the Meat-Inspection Act, "unsound," "unhealthful," "unwholesome," or "otherwise unfit for food."

Should the examination indicate a violation of the law, reports should be made in the following manner:

(1) Seizure action under section 10: Transmit immediately, in accord with general instructions, all facts relative to quantity, shipment, etc., together with a verbatim report of the examination of the sample by the B. A. I. official.

(2) Criminal action under section 2: In this case the collection of a sample is imperative. It should be delivered direct to the official making examination or

[1] In order to avoid the publication of unnecessary matter, those portions of the correspondence which do not bear on the subject in question have been omitted.

otherwise should be properly sealed and delivered to the officer in charge, who may then refer it to a subordinate. This sample after examination should be returned to you when the written report is submitted and should be properly sealed in glass jars or other suitable containers and delivered to the laboratory to which you are submitting samples at that time. All reports required under present instructions in such cases should be submitted by you and the report of the B. A. I. official in charge or a copy thereof should be included with your collection report. The description of sample slip, which is delivered to the laboratory receiving the sample, should bear a notation setting forth the circumstances under which collection was made, the nature of examination and results thereof.

If the report of the B. A. I. official shows the product not to be adulterated it will be sufficient to transmit such report with the information and records required of unofficial samples only. In such instances delivery of samples to the laboratory may be omitted unless supplemental or additional examination be deemed necessary.

Subhead 2 of the general classification refers to those cases which are prepared exclusively by inspectors of the Bureau of Animal Industry. On account of the small number of food and drug inspectors it will not be possible always for officials of the Bureau of Animal Industry to communicate readily with them, looking to appropriate investigations of questionable shipments which may have been brought to the attention of the B. A. I. inspectors. The latter will be acquainted fully with the character of instructions issued to food and drug inspectors. If you receive at any time requests from employees of the Bureau of Animal Industry to assist in the completion of some investigation which they have undertaken with a view to bringing prosecutions independently under the Food and Drugs Act, cooperate with them in every way practicable, giving them the benefit of your knowledge and experience in such work.

Respectfully, A. Stengel, *Acting Chief Inspector.*

10. The use of the term Salad Oil.

Dear Sir: The Board of Food and Drug Inspection has had under consideration for some time the proper labeling of edible oils intended largely for salad purposes. Pending a final decision in this matter, no objection will be made to the use of the term Salad Oil on oils other than olive oil, when such other oils are pure, harmless, and edible, providing the term Salad Oil be plainly qualified by the common name of the oil or oils actually used. These qualifying names should be stated on the label with a prominence equal to that of the term Salad Oil.

Compounds of two or more oils should be labeled as compounds, and the names of the oils composing them should also be given.

Any oil labeled as above described will be deemed misbranded if the label bears any design or device that would lead the ordinary consumer into believing that he is receiving an imported oil if, in fact, it is wholly or in part a domestic oil.

Respectfully, C. L. Alsberg,
Chairman, Board of Food and Drug Inspection.

11. The labeling of cocoanut.

Dear Sir: The attention of the board has been called to the labeling of certain forms of cocoanut prepared for food purposes with the use of sugar, glucose, or other harmless food substances. These products are often labeled simply Prepared Cocoanut, Shredded Cocoanut, or some equivalent phrase.

In the opinion of the board the presence of sugar or other substances used in the preparation of cocoanut should be plainly declared on the label in connection with the word "cocoanut."

Respectfully, C. L. Alsberg,
Chairman, Board of Food and Drug Inspection.

12. The labeling of mixed Graham flour.

DEAR SIR: Graham flour is defined as unbolted wheat meal. Any product sold as Graham flour should comprise all of the constituents of the wheat berry in the proportion in which they exist in the grain. Any mixture of various mill runs not including all of the streams of the run should be labeled so as to plainly indicate that it is an imitation and the word "imitation" should be plainly stated upon the package in which it is offered for sale.

Respectfully, C. L. ALSBERG,
Chairman, Board of Food and Drug Inspection.

13. The status of tobacco and its preparations under the Food and Drugs Act.

DEAR SIR: Under the Food and Drugs Act, a drug is defined as any substance, or mixture of substances, intended to be used for the cure, mitigation, or prevention of disease of either man or other animals. It, therefore, follows that tobacco and its preparations, when labeled in such a manner as to indicate their use for the cure, mitigation, or prevention of disease, are drugs within the meaning of the act, and, as such, are subject to the provisions thereof.

On the other hand, tobacco and its preparations which are not so labeled and are used for smoking or chewing or as snuff and not for medicinal purposes are not subject to the provisions of the act.

Respectfully, C. L. ALSBERG, *Chief.*

14. The purpose of Treasury Decision 33456 regarding cocain, coca, their derivatives and preparations.

DEAR SIR: Treasury Decision No. 33456, issued May 29, 1913, requires a declaration by the importer of the amount of cocain on hand at the beginning of each year.

All importers are required to file with the Bureau of Chemistry a declaration in the form set out in this decision. In this declaration the importer agrees not to use any of the cocain or coca in such manner as to be deleterious to the health of the people of the United States; that he will keep a complete record of the packages and that he will secure from each and every person, firm, or corporation, to whom he sells a part or the whole of the importation, a declaration in the same form as that made by himself. This declaration is required in conjunction with every sale of cocain and coca, their derivatives and preparations, whether the sale is made to licensed pharmacists, physicians, or otherwise.

The purposes of the declaration are to compel the keeping of a record of the cocain and coca leaves imported into the United States from the time they are entered until they reach the ultimate consumer and to secure from all persons handling the articles, from the time of importation until sale to the consumer, agreements in the same form as that contained in the declaration.

The declaration will not be required of persons purchasing cocain on prescriptions from registered practitioners. In case a physician or surgeon writes a prescription "for his own use," the physician or surgeon under these conditions would be construed as the user and accordingly the declaration would not be required of him, but the prescription would be required to be kept on file as is provided for in the declaration, so as to make the records complete.

Respectfully, R. L. EMERSON, *Assistant Chief.*

15. The labeling of carbonated waters.

DEAR SIR: Food Inspection Decision No. 94, issued by the Board of Food and Drug Inspection, ruled that a bottled water which has had any constituent added to it or abstracted from it must be so labeled as to indicate this fact clearly; otherwise, the product is misbranded in that the label is misleading. When, therefore, a

water highly charged with bicarbonates is allowed to stand for a sufficient time to permit decomposition and a precipitation of either the iron or calcium, or both, and at the same time a loss of its excess of carbonic acid, the natural character of the product is as certainly and as effectively altered as if the same result were produced by boiling or other means, and the fact that it has been so altered should be clearly shown on the label for the information of the consumer.

The waters of the ——— Springs are naturally charged or carbonated with an excess amount of carbonic acid gas, which is a valuable and desirable constituent and has undoubtedly had much to do with the reputation which these waters have acquired. When, therefore, this gas is removed or allowed to escape and the water filtered and artificially recarbonated, we are of the opinion that the public is entitled to know this, and if the label does not so inform the purchaser the said label is misleading.

We do not believe that the phrase "Filtered and Mildly Carbonated" sufficiently indicates to the consumer the fact that constituents have been both removed and added to a water from ——— Springs, labeled "Natural Mineral Water." We are of the opinion that a water which has been artificially carbonated can not be properly labeled "A Natural Mineral Water," but that it should be labeled "——— Mineral Water, artificially carbonated," or "Contains added carbonic acid gas," or some similarly explicit and definite statement, and if the iron and calcium salts have been removed or have been allowed to separate out and then filtered off, this fact also should clearly appear in the label.

Respectfully, C. L. Alsberg, *Chief.*

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT.

[Given pursuant to section 4 of the Food and Drugs Act.]

2786. Misbranding of imitation apple butter. U. S. v. The Harbauer-Marleau Co. Plea of nolo contendere. Fine, $50. (F. & D. No. 1787. I. S. No. 13394-b.)

On April 5, 1911, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Harbauer-Marleau Co., a corporation, Toledo, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about May 25, 1910, from the State of Ohio into the State of New York, of a quantity of imitation apple butter which was misbranded. The product was labeled: "Imitation Apple Butter. Made by The Harbauer-Marleau Co. Toledo, Ohio, U. S. A. 75% cider and apples, 25% corn syrup, granulated sugar and pure spices."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the presence of 29.69 per cent commercial glucose and 0.12 per cent sodium benzoate. Misbranding of the product was alleged in the information for the reason that the label and brand above set forth led the purchaser to believe that said product was an imitation apple butter made from cider, apples, corn syrup, granulated sugar, and pure spices, when, as a matter of fact, it consisted of said ingredients and an added ingredient not a normal constituent of foods, to wit, benzoate of soda.

On January 27, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $50.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 16, 1914.*

2787. Misbranding of Budapest essence for coffee. U. S. v. The Dey Manufacturing Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 2068. I. S. No. 1923-c.)

On April 3, 1911, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Dey Manufacturing Co., a corporation, Cleveland, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about July 16, 1910, from the State of Ohio into the State of Pennsylvania, of a quantity of Budapest essence for coffee which was misbranded. The product was labeled: (On front label) "Budapest essence for coffee. 35% Vegetable Carbon Compound. 65% Caramel. A. L. Reber, Pittsburgh, Pa." (On side label) "Improves coffee and saves money. This essence if used with coffee as directed will increase the strength and improve the flavor. It will have a finer and richer color and will be much more wholesome than coffee alone. It will clear without requiring anything to settle it. Directions for using: Take one part of this essence to two or three parts of ground coffee, steep it as usual and then strain."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed that it contained crude fiber, 2.42 per cent; ash, 8.69 per cent; protein ($N \times 6.25$), 7.56 per cent. Microscopical examination showed considerable wheat starch and wheat tissues present. Misbranding of the product was alleged in the information for the reason that the label and brand as above set forth was false and misleading because the name "Budapest" tended to and did deceive and mislead the purchaser into the belief that the product was of foreign manufacture, imported from Budapest, whereas, in truth and in fact, it was manufactured in the United States. Misbranding was alleged for the further reason that said label and brand would tend to and would deceive the purchaser thereof into the belief that if said product were added to coffee in the manner directed upon the label it would increase the strength of said coffee, whereas an analysis of the product disclosed the fact that it did not contain any ingredients which would possess any power to increase the strength of coffee.

On May 28, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 16, 1914.*

2788. Alleged adulteration of frozen eggs and adulteration of dried eggs. U. S. v. Fifty Cans of Frozen Eggs and Eleven Drums of Dried Eggs. Libel dismissed as to fifty cans of eggs. Decree of condemnation and forfeiture as to eleven drums. Product ordered released on bond. (F. & D. No. 2139. S. No. 769.)

On or about December 2, 1910, the United States Attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 50 cans of frozen eggs and 11 drums of dried eggs, remaining unsold in the original unbroken packages and in possession of the Eastern States Refrigerating Co., Springfield, Mass., alleging that the product had been shipped from the State of Illinois into the State of Massachusetts and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the product was alleged in the libel for the reason that it consisted in part of filthy, decomposed and putrid animal and vegetable substance.

On February 8, 1912, the libel of information was dismissed as to the 50 cans of frozen eggs in accordance with an agreement between counsel for the Government and claimant.

On September 13, 1912, the case against the 11 drums of dried eggs having come on for hearing before the court, W. C. Cowan, of New York, N. Y., claimant, having filed his answer denying that the product was adulterated, and after hearing the parties by their counsel, it was ordered, adjudged, and decreed by the court that the product, 11 drums of dried eggs, was adulterated and unfit for use in any manner as an article of food, and condemned. It was further ordered by the court that said product be delivered to said claimant upon payment of the costs of the proceedings, amounting to $103.79, and the execution of bond in conformity with section 10 of the act, and that if said claimant failed to comply with the foregoing order that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 16, 1914.*

2789. Misbranding of strawberry ade syrup. U. S. v. National Pickle & Canning Co. Plea of guilty. Fine, $10. (F. & D. No. 2187. I. S. No. 2820-c.)

At the November, 1910, term of the court, the United States Attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in three counts against the National Pickle & Canning Co., Dodson Braun Branch, a corporation, St. Louis, Mo., alleging shipment by said defendant in the third count of the information in violation of the Food and Drugs Act, on June 25, 1910, from the State of Missouri into the State of Colorado, of a quantity of Cupid Brand Strawberry Ade Syrup, so-called, which was misbranded. The product was labeled: "Cupid Brand Strawberry Ade Syrup. A Concentrated fruit syrup, made from strawberries when in season, and refined sugar. Acid phosphate added. Packed and guaranteed by the National Pickle & Canning Co. Dodson-Braun Branch, St. Louis, U. S. A.," and: "Directions. Use one part of this syrup to seven parts cold or hot water. An improved beverage is made by substituting for plain water, either Appollinaris, Seltzer, Mineral, Soda or Carbonated water. NPCCo."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed sodium benzoate, 0.05 per cent.

Misbranding of the product was alleged in said third count of the information for the reason that the labels thereon, as set forth above, were false and misleading in that the product was represented to be a concentrated fruit sirup made from straw-

berries when in season, and refined sugar with acid phosphate added, whereas, in truth and in fact, there had been added to the product and said product contained benzoate of soda in addition to the ingredients above mentioned; and that said product was so labeled as to mislead and deceive the purchaser into the belief that it was a fruit sirup made with sugar and acid phosphate and strawberries, whereas, in truth and in fact, it contained in addition thereto benzoate of soda, and the presence of said ingredient was not made known to the purchaser by any statement on the labels, and said product was thereby misbranded.

On May 29, 1911, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 on each count thereof as set forth in Notice of Judgment No. 1098, which includes the first and second counts of the information (F. & D. No. 1902), but the disposition of the third count was inadvertently omitted in said notice of judgment.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *January 16, 1914.*

2790. Misbranding of non-alcoholic grape juice. U. S. v. The Lake Erie Wine Co. Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 2221. I. S. No. 2909-c.)

On May 9, 1911, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Lake Erie Wine Co., Sandusky, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about March 26, 1910, from the State of Ohio into the State of Michigan, of a quantity of so-called non-alcoholic grape juice which was misbranded. The product was labeled: "Non-Alcoholic Grape Juice. Catawba. Guaranteed absolutely non-alcoholic. The contents of this package are guaranteed by Serial No.11119 to comply with the National Pure Food and Drugs Act of June 30, 1906."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Specific gravity at 15.6° C	1.07677
Alcohol (per cent by volume)	1.47
Alcohol, qualitative	Present.
Solids (grams per 100 cc)	20.42
Non-sugar solids (grams per 100 cc)	2.66
Sucrose by Clerget	None.
Reducing sugars as invert (grams per 100 cc)	17.76
Polarization, direct at 31° C	−24.42° V.
Polarization, invert at 31° C	−24.40° V.
Polarization, invert at 87° C	− 6.92° V.
Ash (grams per 100 cc)	0.30
Phosphoric acid (P_2O_5) (mg per 100 cc)	19.4
Sulphates as K_2SO_4 (grams per 100 cc)	0.078
Total acid as tartaric (grams per 100 cc)	0.84
Artificial color	None.
Salicylic acid	None.
Benzoic acid	None.

Misbranding of the product was alleged in the information for the reason that the label thereon contained the statement, and would lead the purchaser of the article to believe, that it contained no alcohol, whereas, in truth and in fact, it contained alcohol in considerable quantity.

On December 16, 1912, the defendant entered a plea of nolo contendere to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2791. Adulteration and misbranding of extract of peppermint. U. S. v. Victor Gautier & Co. Plea of guilty. Fine, $15. (F. & D. No. 2331. I. S. No. 3049-c.)

On July 31, 1913, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Victor Gautier & Co., a corporation, New York, N. Y., alleging the sale by said defendant, on September 8, 1910, for shipment in interstate commerce, of a quantity of so-called extract of peppermint which was adulterated and misbranded within the meaning of the Food and Drugs Act. It was also alleged that the purchaser of the product, on September 8, 1910, shipped the product as aforesaid from the State of New York, through the State of New Jersey, into the State of New York. The product was labeled: "Peppermint. Fine Old Extract Peppermint. Henry Franklin & Co. These goods are guaranteed pure and are distilled under the most modern and improved methods."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Oil of peppermint, 0.50 per cent; color, artificial, Naphthol Yellow S; ethyl alcohol, 39.30 per cent. Adulteration of the product was alleged in the information for the reason that a substance other than extract of peppermint, to wit, a solution of alcohol and water, was substituted in part for the article and in that a certain substance other than extract of peppermint, to wit, a dilute solution of alcohol and water, had been mixed and packed with the article in such a manner as to reduce, lower, and injuriously affect its quality and strength. Misbranding of the product was alleged for the reason that the label set forth above, regarding the article and the substances and ingredients contained therein, was false and misleading and the product was labeled so as to deceive and mislead the purchaser in that said label would indicate that the product was a true extract of peppermint, whereas, in truth and in fact, it was not a true extract of peppermint but was a mixture of extract of peppermint and alcohol and water, colored with Naphthol Yellow.

On October 22, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $15.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2792. Adulteration and misbranding of vinegar. U. S. v. Amazon Vinegar & Pickling Works. Plea of guilty. Fine, $10 and costs. (F. & D. No. 2438. I. S. No. 10040-c.)

On October 2, 1912, the United States Attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Amazon Vinegar & Pickling Works, a corporation, Davenport, Iowa, alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 3, 1910, from the State of Iowa into the State of Illinois, of a quantity of beet sugar vinegar which was adulterated and misbranded. The product was labeled: "Mfg. for W. A. Jordan & Co., Knox Beet Sugar Vinegar, 49 Galls, Galesburg, Ill."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids (grams per 100 cc)	1.674
Nonsugar solids (grams per 100 cc)	.732
Reducing sugar, invert after inversion (grams per 100 cc)	.942
Ash (grams per 100 cc)	.218
Ash, soluble in water (grams per 100 cc)	.182
Ash, insoluble in water (grams per 100 cc)	.036
Alkalinity of soluble ash (cc N/10 acid per 100 cc)	15.0
Acid, as acetic (grams per 100 cc)	4.56
Fixed acid, as malic (grams per 100 cc)	.023

Glycerol (grams per 100 cc)	0.012
Color (degrees, brewer's scale, 0.5 inch)	4
Total phosphoric acid as P_2O_5 (mg per 100 cc)	4.32

Adulteration of the product was alleged in the information for the reason that a product distilled from beet sugar sirup had been mixed and packed with the article so as to reduce, lower, or injuriously affect its quality and strength and had been substituted wholly or in part for the article (beet sugar vinegar). Misbranding of the product was alleged for the reason that the label above set forth represented it to be a beet sugar vinegar, which is understood by the trade and public generally to be a product made by the alcoholic and subsequent acetous fermentations of solutions of beet sugar or beet sugar sirup, when, in truth and in fact, the product was prepared by distillation and was artificially colored in a manner to conceal its inferiority, the label in question being false and misleading and such as to deceive the purchaser into the belief that he was purchasing a genuine beet sugar vinegar conforming to the commercial concept above set forth, when, in truth and in fact, he was purchasing an imitation of said article offered for sale under the distinctive name of said other article (beet sugar vinegar).

On April 25, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2793. Misbranding of mincemeat. United States v. H. C. Christy Co. Plea of nolo contendere. Fine, $200 and costs. (F. & D. No. 2488. I. S. No. 11825-c.)

On October 4, 1911, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the H. C. Christy Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 9, 1910, from the State of Ohio into the State of Pennsylvania, of a quantity of mincemeat which was misbranded. The product was labeled: "Mince Meat. Macrisco Brand. We guarantee all goods put up under this brand the finest possible to pack. Dealers are authorized to return purchase money if not as represented. Contains one-tenth of 1% Benzoate of Soda. The H. C. Christy Co., Cleveland, Ohio."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the presence of 16.69 per cent of commercial glucose. Misbranding of the product was alleged in the information for the reason that the label thereon was intended and would create the impression that the product was pure mincemeat of the finest quality, conforming to the commercial concept for such product, whereas, in truth and in fact, it contained an added ingredient, to wit, commercial glucose, which was not a normal constituent thereof and the presence of which was not declared upon the label. Misbranding was alleged for the further reason that the label on the product was false and misleading, in that it would deceive and mislead the purchaser thereof to believe that the article so labeled and branded as aforesaid was pure mincemeat of the finest quality, conforming to the commercial concept for such product, whereas, in truth and in fact, it contained an added ingredient, to wit, commercial glucose, which was not a normal constituent thereof and the presence of which was not declared upon the label.

On May 16, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $200 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2794. Adulteration of vanilla extract. U. S. v. One Barrel Vanilla. Decree of condemnation by default. Product ordered sold. (F. & D. No. 2498. S. No. 885.)

On March 7, 1911, the United States Attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of one barrel of vanilla extract remaining unsold in the original unbroken package and in the possession of Tombros & Skokos, Trenton, N. J., alleging that the product had been shipped on January 25, 1911, by the Star Extract Works, New York, N. Y., and transported from the State of New York into the State of New Jersey, and charging adulteration in violation of the Food and Drugs Act. The product bore no label except the following shipping directions: "P. R. R. Tombros and Skokos, 14 N. Broad St., Trenton, N. J."

Adulteration of the product was alleged in the libel for the reason that it was invoiced as "25 gals. Pure vanilla" which said invoice was intended to indicate that the product was vanilla extract manufactured and extracted from the vanilla bean, when, in truth and in fact, the alleged vanilla extract was not pure vanilla but was compounded in whole or in part from, and made up of, certain ingredients, to wit, coumarin, vanillin, and caramel.

On April 18, 1911, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2795. Misbranding of buckwheat flour. U. S. v. Blair Milling Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 2520. I. S. No. 11511-c.)

On September 28, 1911, the United States Attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Blair Milling Co., a corporation, Atchison, Kans., alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 14, 1910, from the State of Kansas into the State of Oklahoma, of a quantity of buckwheat flour which was misbranded. The product was labeled: "The Blair Milling Co. Atchison, Kans. Pure Pennsylvania Style Fresh Ground Buckwheat Flour Bemis Kansas City 9 Lbs. Pure Buckwheat."

Examination of samples of the product by the Bureau of Chemistry of this Department showed the following results: Weight of small sacks: Maximum, of ten sacks, 8 pounds, $13\frac{1}{8}$ ounces; minimum, of ten sacks, 8 pounds, $9\frac{1}{8}$ ounces; average, of ten sacks, 8 pounds, $12\frac{5}{16}$ ounces; Bamihl-Winton test, positive: microscopic examination shows wheat starch.

Misbranding of the product was alleged in the information for the reason that the amount of flour in each of the packages was stated in terms of weight thereon, but was not correctly stated on the outside of said packages, the labels thereon being such as to mislead and deceive the purchaser into the belief that each of the packages contained 9 pounds of the product when in truth and in fact said packages and each of them contained lesser amounts.

On January 31, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2796. Adulteration of acid calcium phosphate. U. S. v. Provident Chemical Works. Plea of guilty. Sentence suspended. (F. & D. No. 2544. I. S. No. 2654-c.)

On June 26, 1912, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Provident Chemical Works, a corporation, New York, N. Y., alleging shipment by said company, in vio-

lation of the Food and Drugs Act, on September 17, 1910, from the State of New York into the State of Massachusetts, of a quantity of acid calcium phosphate which was adulterated. The product was labeled: "Provident Chemical Works 300 lk 3 St. Louis. Serial No. 381. P. C. W. New York. 41/25/34005/0/91/34. H. A. Johnson, Boston, Mass."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Fluorids as fluorin, approximately 0.04 per cent; starch, 0.57 per cent; microscopic examination, corn starch; alum, none; sulphur acid as $CaSO_4$, 41.84 per cent; arsenic (Gutzeit method), 200 mg per kilo. Adulteration of the product was alleged in the information for the reason that it contained a certain added poisonous and deleterious ingredient, to wit, arsenic, which might render it injurious to health.

On October 28, 1912, the defendant company entered a plea of guilty to the information and the court suspended sentence.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2797. Alleged misbranding of coffee. U. S. v. C. F. Blanke Tea & Coffee Co. Tried to a jury. Verdict of not guilty. (F. & D. No. 2620. I. S. No. 12890-c.)

On July 21, 1911, the United States Attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the C. F. Blanke Tea & Coffee Co., a corporation, St. Louis, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 14, 1910, from the State of Missouri into the State of Louisiana, of a quantity of coffee which was alleged to have been misbranded. The product was labeled: "Blanke's Mojav Coffee. The name Blanke is synonymous with good drinking coffee. A special blend of good drinking coffee put up ground, whole or pulverized sold in fancy two pound cans to give the consumer a set of handsome cans to retain for household use. Blanke's Mojav Roasted Coffee. Put up by the most complete coffee plant in the world. C. F. Blanke Tea & Coffee Co. Promoters of Good Goods. St. Louis, U. S. A."

Examination of a sample of the product by the Bureau of Chemistry of this Department indicated that it was a high grade Santos, probably grading about a No. 2. Neither Mocha nor Java coffee was used in the product. It appeared that the product was all of one chop and not a blend as stated on the label. Misbranding of the product was alleged in the information for the reason that the labels thereon as above set forth created the impression and led the purchaser to believe that the product was a mixture of Mocha and Java coffee; that the word "Mojav" which appeared in large and conspicuous type upon the labels was compounded from the words "Mocha" and "Java" and led the purchaser to believe that the product was a mixture of Mocha and Java coffees, which are coffees of well known grade and quality, when in truth and in fact it was another and different grade of coffee known as Santos and contained neither Mocha nor Java coffee; and it was further misbranded in that the labels upon the cans were false and misleading, and the product was so branded as to deceive and mislead the purchaser into the belief that it was Mocha and Java coffee, when, in truth and in fact, it was composed almost entirely of Santos coffee, which is another and different grade of coffee; and the product was further misbranded in that it was an imitation of and offered for sale under the distinctive name of another article.

On January 11, 1913, the case having come on for trial before the court and a jury, after the introduction of testimony the following charge was delivered to the jury by the court:

Dyer, *Judge.* Gentlemen of the Jury: I am asked at the conclusion to give you a peremptory instruction.

This Pure Food Act, as it is popularly known, is one of the most important acts that has found its way upon the statutes, and where people violate it they should be punished, because the act itself is most admirable. But from all the testimony that has

been offered in this case the court is not of the opinion that the Government has made out a case that calls for even consideration by the jury as to the guilt of this defendant.

The court, therefore, upon the whole case as made, gives you a peremptory instruction to find for the defendant, and one of your number will sign the verdict.

In accordance with the above instruction the jury thereupon returned a verdict of not guilty.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2798. Adulteration and misbranding of macaroni and vermicelli. U. S. v. Alphonse Bouchet, Marie Louise Pantiatichi and Stanley McIntosh, doing business under the name and style of P. Daussa & Co. Plea of guilty by defendant McIntosh. Fine, $20. Information dismissed as to defendants Bouchet and Pantiatichi. (F. & D. No. 2625. I. S. Nos. 10784-c, 10785-c, 12212-c, and 12213-c.)

On February 6, 1912, the United States Attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Alphonse Bouchet and Marie Louise Pantiatichi, and on June 23, 1913, against Stanley McIntosh, doing business under the name and style of P. Daussa & Co., Brooklyn, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, from the State of New York into the State of Florida—

(1) On November 19, 1910, of a quantity of vermicelli which was adulterated and misbranded. This product was labeled: "La Amiga del Pueblo Pureze Fideos. P. Daussa & Cia. Gran Fabrica de fideos, Refinos establecids en 1865. Brooklyn, E. U."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed that it was colored with a coal-tar dye Naphthol Yellow S, S&J 4. Adulteration of this product was alleged in the information for the reason that it was artificially colored with a yellow dye so as to simulate the appearance of high grade vermicelli, and in a manner whereby inferiority was concealed. Misbranding was alleged for the reason that the label bore statements, designs, and devices regarding said product and the ingredients and substances contained therein which were false and misleading, in that the label represented it to be pure vermicelli of a natural color, whereas, in truth and in fact, it contained artificial coloring matter, the presence of which was not made known to the purchaser. Misbranding was alleged for the further reason that the product was labeled and branded so as to mislead and deceive the purchaser, in that the labels conveyed the impression that the product was uncolored vermicelli of high grade, whereas, in truth and in fact, it consisted of products artificially colored.

(2) On November 25, 1910, of a quantity of macaroni which was adulterated and misbranded. This product was labeled: "La Amiga del Pueblo Pureza Fideos. P. Daussa & Cia, Maccaroni, Gran Fabrica de Fideos, establecida en 1865. Brooklyn, E. U."

Analysis of a sample of this product by said Bureau of Chemistry showed that it was colored with Naphthol Yellow S, S&J 4. Adulteration of the product was alleged in the information for the reason that it was artificially colored with a yellow dye so as to simulate the appearance of high grade macaroni, and in a manner whereby inferiority was concealed. Misbranding was alleged for the reason that the label bore statements, designs, and devices regarding the product and the ingredients and substances contained therein which were false and misleading, in that said label represented the product to be pure macaroni of a natural color, whereas, in truth and in fact, it contained artificial coloring matter, the presence of which was not made known to the purchaser. Misbranding was alleged for the further reason that the product was labeled and branded so as to mislead and deceive the purchaser, in that the label conveyed the impression that it was uncolored macaroni of high grade, whereas, in truth and in fact, it consisted of products artificially colored.

(3) On December 5, 1910, of a quantity of vermicelli which was adulterated and misbranded. This product was labeled: "Fideos P. Daussa & Cia. Gran Fabrica de Fideos Establecida en 1865, Brooklyn, E. U. Marca. Bandera de Honor, P. Daussa y Cia, Fabrica de Fideos."

Analysis of a sample of the product by said Bureau of Chemistry showed that it was colored with Naphthol Yellow S, S&J 4.

(4) On December 10, 1910, of a quantity of vermicelli which was adulterated and misbranded. This product was labeled: "Refinos P. Daussa & Cia. Gran Fabrica de Fideos Establecida en 1865 Brooklyn E. U. Independencia (Figure holding scales Cuban Flag, and standing on island) Cuba."

Analysis of a sample of this product by said Bureau showed that it was colored with Naphthol Yellow S, S&J 4.

Adulteration of these products was alleged in the information for the reason that they were artificially colored with a yellow dye so as to simulate the appearance of high grade vermicelli, and in a manner whereby inferiority was concealed. Misbranding was alleged for the reason that the labels thereon bore statements, designs, and devices regarding said products and the ingredients and substances contained therein which were false and misleading, in that the labels represented the products to be pure vermicelli of a natural color, whereas, in truth and in fact, they contained artificial coloring matter, the presence of which was not made known to the purchaser. Misbranding was alleged for the further reason that the products were labeled and branded so as to mislead and deceive the purchaser, in that the labels conveyed the impression that the products were uncolored vermicellis of high grade, whereas, in truth and in fact, they consisted of products artificially colored.

On June 23, 1913, defendant McIntosh entered a plea of guilty to the information and the court imposed a fine of $20. The information against Bouchet and Pantiatichi was dismissed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2799. Adulteration and misbranding of vinegar. U. S. v. Patrick H. Sugrue et al. Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 2670. I. S. No. 11824-c.)

On May 8, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Patrick H. Sugrue, John J. Sugrue, and Ralph B. Sugrue, doing business under the firm name and style of P. H. Sugrue & Co., Cleveland, Ohio, alleging the sale by said defendants, under a written guaranty, on or about October 25, 1910, of a quantity of vinegar which was on or about November 2, 1910, shipped by the purchaser thereof from the State of Ohio into the State of Pennsylvania, and which was adulterated and misbranded in violation of the Food and Drugs Act. The product was labeled: (On one end) "The W. Edwards Co., Clifton Brand Pure Cider Vinegar, Cleveland, O." (Opposite end) "47 Sugrue & Co., Cleveland, O. Manufd. Mar. 1, 1910. (Address) D. J. Frewen, Franklin, Pa."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids (grams per 100 cc)	2.04
Non-sugars (grams per 100 cc)	1.10
Reducing sugar direct (grams per 100 cc)	0.94
Sugar in solids (per cent)	46.1
Polarization, direct	−0.6° V.
Ash (grams per 100 cc)	0.41
Alkalinity of soluble ash (cc N/10 acid per 100 cc)	45.0
Soluble P_2O_5 (mg per 100 cc)	17.0
Insoluble P_2O_5 (mg per 100 cc)	15.4
Total acid as acetic (grams per 100 cc)	3.90

Fixed acid	Trace.
Lead precipitate	Large.
Color (degrees brewer's scale, 0.5 inch)	8.0
Color removed by fuller's earth (per cent)	60
Glycerin (grams per 100 cc)	0.06
Pentosans (grams per 100 cc)	0.042
Alcohol precipitate (grams per 100 cc)	0.09

Adulteration of the product was alleged in the information for the reason that it consisted of cider vinegar, to which other substances had been mixed, so as to lower and injuriously affect the quality and strength of said product, to wit, dilute acetic acid or distilled vinegar, foreign material high in sugar, and added mineral matter mixed and prepared in imitation of cider vinegar. Adulteration was alleged for the further reason that the product consisted in part of dilute acetic acid or distilled vinegar, foreign material high in sugar and added mineral matter, mixed and prepared in imitation of cider vinegar which had been substituted in part for cider vinegar. Misbranding was alleged for the reason that the label on the product would deceive and mislead the purchaser into the belief that it consisted of pure cider vinegar, whereas, in truth and in fact, it did not consist of pure cider vinegar, but had added to cider vinegar other substances, to wit, dilute acetic acid or distilled vinegar, foreign material high in sugar and added mineral matter, mixed and prepared in imitation of cider vinegar; and for the further reason that said label on the product would deceive and mislead the purchaser into the belief that said product consisted of pure cider vinegar, whereas, in truth and in fact, it did not consist of pure cider vinegar, but consisted of a substance wherein dilute acetic acid or distilled vinegar, foreign material high in sugar and added mineral matter, mixed and prepared in imitation of cider vinegar, had been substituted in part for said vinegar.

On December 6, 1912, the defendants entered a plea of nolo contendere to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2800. Adulteration and misbranding of olive oil. U. S. v. George Adracht (Greek Trading Co.). Plea of guilty. Fine, $15. (F. & D. No. 2743. I. S. No. 13964-c.)

On June 26, 1912, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against George Adracht, doing business under the name and style of the Greek Trading Co., New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on March 9, 1911, from the State of New York into the State of Maryland, of a quantity of so-called olive oil which was adulterated and misbranded. The product was labeled: "Olio D'Olivia Sopraffino Lucca Brand Olive Oil."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Specific gravity, 15.6°C./15.6°C., 0.91728; index of refraction at 25°C., 1.4668; iodin number, 86.1; Halphen test, positive; peanut oil test, negative; sesame oil test, negative; cottonseed oil by color comparison, 25 per cent. Adulteration of the product was alleged in the information for the reason that another article, to wit, cottonseed oil, was substituted in part for olive oil. Misbranding was alleged for the reason that the label set forth above, regarding the article and the ingredients and substances contained therein, was false and misleading and said label was calculated to mislead and deceive the purchaser or purchasers thereof in that said label would indicate that the article consisted of olive oil, whereas, in truth and in fact, it consisted of a mixture of olive oil and cottonseed oil, said article containing approximately 25 per cent of cottonseed oil.

On November 13, 1912, the defendant entered a plea of guilty to the information and the court imposed a fine of $15.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2801. Adulteration and alleged misbranding of vinegar. U. S. v. The Harbauer-Marleau Co. Plea of nolo contendere to first and third counts of information. Fine, $150 and costs. Second and fourth counts of information nolle prossed. (F. & D. Nos. 2784, 2796. I. S. Nos. 2260-c, 1857-c.)

On September 30, 1911, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in four counts against the Harbauer-Marleau Co., a corporation, Toledo, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on August 27, 1910, from the State of Ohio into the State of Missouri, of two consignments of so-called apple cider vinegar which was adulterated and alleged to have been misbranded. The first consignment was labeled: "Sweet Home Brand Fermented Apple Cider Vinegar. Made for Goddard Groc. Co., St. Louis, Mo. Aug. 26, 1910. Guaranteed under the Pure Food and Drugs Act, June 30, 1906. Serial No. 8904."

Analysis of a sample of the product contained in the above consignment by the Bureau of Chemistry of this Department showed the following results:

Solids (grams per 100 cc)	1.88
Reducing sugars direct (grams per 100 cc)	.78
Reducing sugars invert (grams per 100 cc)	.835
Ash (grams per 100 cc)	.34
Water-insoluble ash (grams per 100 cc)	.04
Alkalinity of water-soluble ash (cc N/10 acid per 100 cc)	30.5
Water-soluble phosphoric acid as P_2O_5 (mg per 100 cc)	9.7
Water-insoluble phosphoric acid as P_2O_5	10.9
Total acid as acetic (grams per 100 cc)	4.00
Fixed acid as malic (grams per 100 cc)	.008
Color (degrees, brewer's scale, 0.5 inch cell)	6.5
Color removed by fuller's earth (per cent)	52
Glycerol (grams per 100 cc)	.142

The other consignment was labeled: "Just Right Brand Fermented Apple Cider Vinegar. Made for Kroeger-Amos-James Co. St. Louis, Mo." (on head of barrel); "49–Aug. 26, 1910–Guaranteed under the Pure Food & Drugs Act June 30 1906 Serial No. 8904" (on other end of barrel).

Analysis of a sample of the product in the above consignment by said Bureau of Chemistry showed the following results:

Solids (grams per 100 cc)	1.87
Reducing sugars direct (grams per 100 cc)	0.80
Reducing sugars invert (grams per 100 cc)	0.84
Ash (grams per 100 cc)	0.34
Water-soluble ash	0.0
Water-insoluble ash (grams per 100 cc)	0.04
Alkalinity of water soluble ash (cc N/10 acid per 100 cc)	30.8
Water-soluble phosphoric acid as P_2O_5 (mg per 100 cc)	9.6
Water-insoluble phosphoric acid as P_2O_5 (mg per 100 cc)	10.8
Total acid as acetic (grams per 100 cc)	4.00
Fixed acid as malic (grams per 100 cc)	.008
Color (degrees, brewer's scale, 0.5-inch cell)	6.5
Glycerol (grams per 100 cc)	.150
Color removed by fuller's earth (per cent)	50.0

Adulteration of the product was alleged in the first and third counts of the information for the reason that a substitute, to wit, a product made from distilled vinegar and from material high in reducing sugars, had been mixed with the article so as to reduce and lower and injuriously affect its quality and strength and for the further reason that a substance, to wit, a product made from distilled vinegar and from material high in reducing sugars, had been substituted in part for said article. Misbranding was alleged in the second and fourth counts of the information for the reason that the labels upon the product as above set forth were false and misleading in that they represented the product to be pure cider vinegar, whereas, in truth and in fact, it was not pure cider vinegar but a mixture of distilled vinegar and material high in reducing sugars.

On January 27, 1913, the defendant company entered a plea of nolo contendere to the first and third counts of the information, charging adulteration, and the court imposed a fine of $150 and costs. The second and fourth counts, charging misbranding, were nolle prossed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2802. Adulteration of tomato pulp. U. S. v. John W. Rider. Plea of guilty. Fine, $25 and costs. (F. & D. No. 2788. I. S. No. 9964-c.)

At the November, 1911, term of the District Court of the United States for the District of Indiana the grand jurors of the United States within and for said district, acting upon a report by the Secretary of Agriculture, returned an indictment against John W. Rider, alias the Scottsburg Canning Co., Scottsburg, Ind., charging shipment by said defendant, in violation of the Food and Drugs Act, on November 26, 1910, from the State of Indiana into the State of West Virginia, of a quantity of tomato pulp which was adulterated. The product bore no labels, but was shipped in barrels as tomato pulp.

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Yeasts and spores, 64 per one-sixtieth cmm; bacteria 140,000,000 per cc; mold filaments in 66 per cent of the microscopic fields.

Adulteration was charged in the indictment for the reason that the product consisted in part of a filthy, decomposed, and putrid vegetable substance.

On April 29, 1913, defendant entered a plea of guilty to the indictment and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2803. Adulteration of tomato catsup. U. S. v. Banner Canning Co. Plea of guilty. Fine, $100 and costs. (F. & D. No. 2793. I. S. No. 11328-c.)

On March 14, 1912, the United States Attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Banner Canning Co., a corporation, Ogden, Utah, alleging shipment by said company in violation of the Food and Drugs Act, on or about October 26, 1910, from the State of Utah into the State of Washington, of a quantity of tomato catsup which was adulterated. The product was labeled: "Tyee Brand Choice Table Catsup Packed for Powell-Sanders Co., Spokane, Wash."

Microscopical examination of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Watery consistency; iodin reaction, quite marked; Lagerheim test, very marked; bacteria (bacilli), 280,000,000 per cc; considerable mold and mold spores. Adulteration of the product was alleged in the information for the reason that it consisted in part of filthy, decomposed, and putrid animal and vegetable substances.

On September 12, 1912, the defendant company entered a plea of guilty to the information and the court imposed a fine of $100 and costs of $18.61.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2804. Adulteration and misbranding of maple syrup. U. S. v. A. J. Smith. Plea of nolo contendere. Fine, $5 and costs. (F. & D. No. 2990. I. S. No. 18023-c.)

On May 8, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said District an information against A. J. Smith, Garrettsville, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about March 8, 1911, from the State of Ohio into the State of Illinois, of a quantity of so-called maple syrup which was adulterated and misbranded. The product was labeled: (On can) "Warranted Pure Maple Syrup—Made by A. J. Smith, Garrettsville, Ohio." (Stamped in can) "Maple Syrup".

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Solids, refractometer, 59.0 per cent, evaporation, 58.9 per cent; total ash, 0.64 per cent; total sugar as invert, 58.8 per cent; polarization, direct at 30° C., +31.6° V., invert at 30° C. −16.6° V., invert at 87° C., 0.0° V. The product is insufficient in solid material and contains an excessive amount of water. Adulteration of the product was alleged in the information for the reason that it consisted of about 5.54 per cent added water, said water having been mixed and packed in and with the product in such a manner as to reduce and lower and injuriously affect its quality and strength, and further for the reason that a substance, to wit, water, had been and was substituted in part for the article. Misbranding was alleged for the reason that the label and brand as set forth above was false and misleading in that it would mislead and deceive the purchaser thereof into the belief that the product consisted of pure maple syrup, whereas, in fact, it was not pure maple syrup but was a mixture of maple syrup and water.

On June 7, 1913, the defendant entered a plea of nolo contendere to the information and the court imposed a fine of $5 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2805. Misbranding of confectionery. U. S. v. The Max Glick Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 3013. I. S. No. 19473-c.)

On May 8, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Max Glick Co., a corporation, Cleveland, Ohio, alleging shipment by said defendant on or about May 10, 1911, from the State of Ohio into the State of North Carolina, of a quantity of confectionery which was misbranded. The product was labeled: "Glicks Famous Maple Sprouts 30 lbs. Net assorted. J. A. Taylor, Wilmington, N. C. % Clyde Line 5 15 1416."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Total ash, on dry substance (per cent)	0.61
Insoluble ash (per cent)	.14
Soluble ash (per cent)	.47
Alkalinity of insoluble ash (cc N/10 acid per 100 cc)	1.3
Alkalinity of soluble ash (cc N/10 acid per 100 cc)	2.4
Alkalinity of 1 grain of insoluble ash (cc N/10 acid per 100 cc)	176.4
Alkalinity of 1 grain of soluble ash (cc N/10 acid per 100 cc)	100.7
Lead number	1.31
Direct polarization	+128.7° V.
Invert polarization	+ 26.9° V.
Sucrose (per cent)	77.0

Misbranding of the product was alleged in the information for the reason that the label and brand as above set forth was false and misleading in that it would mislead and deceive the purchaser of the article into the belief that it contained an appreciable amount of maple, whereas, in fact, it contained little, if any, maple. Misbranding

was alleged for the further reason that the label and brand aforesaid was false and misleading in that it would deceive and mislead the purchaser into the belief that the article was flavored with an appreciable quantity of maple, whereas, in fact, it contained little, if any, maple and in insufficient quantity to impart any maple flavor.

On March 3, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2806. Misbranding of fish. U. S. v. 100 Pails of Fish. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 3017. S. No. 1104.)

On October 16, 1911, the United States Attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 100 pails, each containing 6 pounds of fish, remaining unsold in the original unbroken packages and in possession of Joseph M. Napier & Co., Macon, Ga., alleging that the product had been shipped by the Davis Bros., Gloucester, Mass., and transported from the State of Massachusetts into the State of Georgia, and charging misbranding in violation of the Food and Drugs Act. The product was labeled in substance as follows: "New Ocean White Fish 1–6, 1277. Packed for Joseph M. Napier and Co., Macon, Ga."

Misbranding of the product was alleged in the libel for the reason that the label and branding thereon bore a statement regarding the kind and character of the fish contained in the 100 pails which was false and misleading for the reason that the fish were whiting or silver hake and not ocean whitefish as the labels indicated. Misbranding was alleged for the further reason that there was nothing in the labeling and branding of the product to indicate the true nature of the fish or that the true contents of the pails of fish were in any wise different from those described by the label, and the branding and labeling was therefore misleading and apt to deceive the purchaser.

On November 28, 1913, no claimant having appeared for the property, and it appearing that while the product was in the custody of the marshal it became decomposed and unfit for food, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2807. Adulteration and misbranding of vinegar. U. S. v. Board, Armstrong & Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 3080. I. S. No. 13389-c.)

On August 28, 1913, the United States Attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Board, Armstrong & Co., Alexandria, Va., alleging shipment by said company, in violation of the Food and Drugs Act, on March 6, 1911, from the State of Virginia into the State of Georgia, of a quantity of so-called apple cider vinegar which was adulterated and misbranded. The product was labeled: "Board, Armstrong & Co., White House Pure Apple Cider Vinegar, Alexandria, Va., 2835–46."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Total acids as acetic (per cent)	4.35
Fixed acids as malic (per cent)	0.017
Volatile acids as acetic (per cent)	4.33
Total solids (per cent)	1.97
Reducing sugars (mg per 100 cc)	822.0
Ash (per cent)	0.345
Alkalinity of ash (cc N/10 acid per 100 cc)	30.0

P_2O_5 (mg per 100 cc)	21.48
Specific gravity	1.0147
Alcohol	None.
Lead precipitate	Medium.
Polarization (°V.)	−1.8
Color removed by fuller's earth (per cent)	56.0
Color (degrees, 1/2 inch cell brewer's scale 52)	2.0

Adulteration of the product was alleged in the information for the reason that a certain substance, that is to say, a substance consisting of a dilute solution of acetic acid or distilled vinegar and foreign ash material, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength and had been substituted in part for it. Misbranding was alleged for the reason that the product was labeled and branded so as to deceive and mislead the purchaser and bore a statement which was false and misleading, that is to say, that the article was not, as the label represented, "Pure Apple Cider Vinegar."

On October 23, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2808. Misbranding of cottonseed meal. U. S. v. Buckeye Cotton Oil Co. Tried to the court and a jury. Verdict, guilty. Fine, $50 and costs. (F. & D. No. 3085. I. S. No. 11905-c.)

On February 19, 1912, the United States Attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Buckeye Cotton Oil Co., a corporation, organized under the laws of the State of Ohio, doing business at Birmingham, Ala., alleging shipment by said company in violation of the Food and Drugs Act, on November 28, 1910, from the State of Alabama into the State of Maine, of a quantity of cottonseed meal which was misbranded. The product was labeled: "100 lbs., Buckeye Prime Cotton Seed Meal, Manufactured by the Buckeye Cotton Oil Company. General Offices, Cincinnati, Ohio. Guarantee: Protein 39 to 41 per cent., Fat 6.50 to 7 per cent., Ammonia 7.50 to 8 per cent., Nitrogen 6.25 to 6.50 per cent., Crude Fiber 8 to 10 per cent. * * *."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Nitrogen, 5.39 per cent; protein, 33.68 per cent. Misbranding of the product was alleged in the information for the reason that the statement on the label: "Guarantee: Protein 39 to 41 per cent" was false and misleading in that the product contained less than 39 per cent protein, viz, 33.68 per cent protein.

On September 16, 1913, the case having come on for trial before the court and a jury, a verdict of guilty was returned by the jury and the court imposed a fine of $50 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2809. Misbranding of vinegar. U. S. v. The Eloma Manufacturing Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 3089. I. S. No. 14531-c.)

On May 12, 1913, the United States Attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Eloma Manufacturing Co., a corporation, Pueblo, Colo., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about November 30, 1910, from the State of Colorado into the State of Kansas, of a quantity of so-called cider vinegar which was misbranded. The product was labeled: "Eloma Pure Cider Vinegar Serial No. 11387 Guaranteed to test not less than 40 grain. Packed by The Eloma Mfg. Co., Pueblo Colorado."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids (grams per 100 cc)	0.97
Nonsugar solids (grams per 100 cc)	0.71
Reducing sugar before inversion (grams per 100 cc)	0.26
Sugar in solids (per cent)	26.81
Polarization, direct	−0.3° V.
Ash (grams per 100 cc)	0.22
Alkalinity of soluble ash (cc N/10 acid per 100 cc)	21.6
Total phosphoric acid (mg per 100 cc)	16.1
Total acid, as acetic (grams per 100 cc)	3.06
Volatile acid, as acetic (grams per 100 cc)	3.05
Fixed acid, as malic (grams per 100 cc)	0.01
Lead precipitate	Light amount.
Color (degrees, brewer's scale 0.5 inch)	4.0
Color removed by fuller's earth (per cent)	68
Ratio ash to nonsugar solids	1 : 3.3
Alcoholic precipitate (grams per 100 cc)	0.07
Pentosans (grams per 100 cc)	0.04
Glycerin (grams per 100 cc)	0.09

Misbranding of the product was alleged in the information for the reason that the statements on the labels and each of them on the outside of the packages were false and misleading and so worded as to deceive and mislead purchasers into the belief that the packages contained pure cider vinegar which would test not less than 40 grain; whereas, in truth and in fact, the packages did not contain pure cider vinegar which would test not less than 40 grain as stated on said labels, but, on the contrary, the packages contained vinegar which, as shown by test, was of a much less grain strength, to wit, 25 grain.

On October 6, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2810. (Supplement to Notice of Judgment No. 1437.) **Adulteration of tomato pulp. U. S. v. 100 Cases of Tomato Pulp. Decree of Condemnation by default. Product ordered destroyed.** (F. & D. No. 3119. S. No. 1136.)

On October 31, 1911, the United States Attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 100 cases, each containing four dozen cans of tomato pulp, remaining unsold in the original unbroken packages and in the possession of Marwell Bros., Brooklyn, N. Y., alleging that the product had been shipped on or about September 22, 1911, by the Torsch Packing Co., Milford, Del., and transported from the State of Delaware into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The product was labeled: (On the shipping cases) "Peerless Brand, Packed by Torsch Packing Co., Baltimore, Md., and Milford, Del." (On cans) "Peerless Brand, for Soup, Made from Tomatoes and Tomato Trimmings, Tomato Pulp, Packed by Torsch Packing Co."

Adulteration of the product was alleged in the libel for the reason that the cans contained an article of food, to wit, tomato pulp, which, being vegetable substance, was in whole or in part filthy and decomposed.

On February 17, 1912, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2811. Misbranding and alleged adulteration of wine. U. S. v. 7 Cases of Wine. Decree of condemnation by consent. Product released on bond. (F. & D. No. 3156. S. No. 1148.)

On November 6, 1911, the United States Attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of one case of so-called Sauterne, two cases of so-called Moselle, and four cases of so-called Burgundy remaining unsold in the original unbroken packages and in the possession of the Los Angeles Wine Co., Spokane, Wash., alleging that the product had been shipped on or about September 22, 1911, by A. Finke's Widow, San Francisco, Cal., and transported from the State of California into the State of Washington, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The Sauterne was labeled: (On case) "Glass with care. This side up. Guaranteed under the Pure Food and Drugs Act June 30, 1906. California Sparkling Sauterne. A. Finkes widow, San Francisco. 12 Large Bottles. Los Angeles Wine Company, Spokane, Wash." (On bottles) "Sparkling Sauterne. Extra Dry Sparkling Sauterne, product of California, Grand Vin Royal, Serveau and Cie Brand. A. Finkes Widow, San Francisco." Adulteration and misbranding of the product was alleged in the libel for the reason that the said Sauterne was not wine of that variety but was artificially carbonated, differing from Sauterne, which is a foreign wine of distinct character, and the labeling of said Sauterne was misleading and false so as to deceive and mislead the purchaser and so as to offer the contents for sale under the name of another article.

The Moselle was labeled: (On cases) "Glass with care. This side up. Guaranteed under the pure food and drugs act June 30, 1906. California Sparkling Moselle. A. Finkes Widow, San Francisco. 24 small bottles Los Angeles Wine Co., Spokane, Wash." (On bottles) "Sparkling Moselle. Extra Dry Sparkling Moselle. Product of California. Grand Vin Royal Serveau and Cie Brand. A. Finkes Widow, San Francisco." Adulteration and misbranding of this product was alleged in this libel for the reason that said Moselle was not wine of that variety but was artificially carbonated, differing from Moselle, which is a foreign wine of distinct character, and that the labeling of said Moselle was misleading and false so as to deceive and mislead the purchaser and so as to offer the contents for sale under the name of another article.

The Burgundy was labeled: (On cases) "Glass with care. This side up. Guaranteed under the Pure Food and Drugs Act June 30, 1906. California Sparkling Burgundy. A. Finkes Widow, San Francisco. 24 Small Bottles. Los Angeles Wine Co., Spokane, Wash." (On bottles) "Sparkling Burgundy. Extra Dry Sparkling Burgundy. Product of California. Grand Vin Royal Serveau and Cie Brand. A. Finkes Widow, San Francisco." Adulteration and misbranding of this product was alleged in the libel for the reason that said Burgundy was not wine of that variety but was artificially carbonated, differing from Burgundy, which is a foreign wine of distinct character, and the labeling of said Burgundy was misleading and false so as to deceive and mislead the purchaser and offer the contents for sale under the name of another article.

On June 30, 1913, A. Finkes Widow Co., a copartnership, having theretofore filed its exceptions and objections to the libels and the same having been overruled by the court, and on February 18, 1913, said claimant having agreed by stipulation that decrees might be entered, judgments of condemnation and forfeiture were entered, the court finding the products misbranded but not adulterated, and it was directed that the products should be sold by the United States marshal unless said claimant pay all the costs of the proceedings and execute bond in conformity with section 10 of the act, in which case the products should be delivered and restored to said claimant by the United States marshal.

On August 25, 1913, the required bonds were furnished and the costs were paid by said claimant. While it was alleged in the libels that the products were adulterated,

in reporting the case to the United States Attorney for action no charge of adulteration was made.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2812. Misbranding and alleged adulteration of wine. U. S. v. Ten Cases of Wine. Decree of condemnation by consent. Product released on bond. (F. & D. No. 3157. S. No. 1149.)

On November 6, 1911, the United States Attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of five cases of so-called Sauterne and five cases of so-called Moselle remaining unsold in the original unbroken packages and in the possession of the Spokane Table Supply Co., Spokane, Wash., alleging that the product had been shipped on or about June 22, 1911, from the State of California into the State of Washington, and charging adulteration and misbranding in violation of the Food and Drugs Act. The Sauterne was labeled: (On cases) "California Sparkling Sauterne. Glass with care. This side up. Guaranteed under the Pure Food and Drugs Act June 30, 1906. A. Finkes Widow, San Francisco, Spokane Table Supply Co., Spokane, Wash. 24 small bottles." (On bottles) "Sparkling Sauterne. Sparkling Sauterne, Product of California. F. C. Marne and Co., Brand. A. Finkes Widow San Francisco." The Moselle was labeled: (On cases) "California Sparkling Moselle. Glass with care. This side up. Guaranteed under the Pure Food and Drugs Act June 30, 1906. A. Finkes Widow, San Francisco. Spokane Table Supply Co. Spokane, Wash. 24 small bottles." (On bottles) "Sparkling Moselle. Sparkling Moselle Product of California. F. C. Marne and Co. Brand. A. Finkes Widow San Francisco."

Adulteration and misbranding of these products was alleged in the libels for the reason that the said sparkling Sauterne and the said sparkling Moselle were not wines of those varieties but were artificially carbonated, differing from sparkling Sauterne and sparkling Moselle, which are foreign wines of distinct characters, and the labeling of said Sauterne and said Moselle was misleading and false so as to deceive and mislead the purchaser and so as to offer the contents for sale under the names of other articles.

On June 30, 1913, A. Finkes Widow Co., a copartnership, having theretofore filed its exceptions and objections to the libels and the same having been overruled by the court, and on February 18, 1913, said claimant having agreed by stipulation that decrees might be entered, judgments of condemnation and forfeiture were entered, the court finding the products misbranded but not adulterated, and it was directed that the products should be sold by the United States marshal unless said claimant pay all the costs of the proceedings and execute bond in conformity with section 10 of the act, in which case the products should be delivered and restored to said claimant by the United States marshal.

On August 25, 1913, the required bonds were furnished and the costs were paid by said claimant. While it was alleged in the libels that the products were adulterated, in reporting the case to the United States Attorney for action no charge of adulteration was made.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2813. Misbranding of rice. U. S. v. 110 Cases of Rice. Product released on bond by order of court. (F. & D. No. 3161. S. No. 1152.)

On November 3, 1911, the United States Attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 110 cases, each containing 100 one-pound cartons of rice, remaining unsold in the original unbroken packages and in possession of Lewis, Hubbard & Co., Charleston,

W. Va., alleging that the product had been shipped from the State of Ohio into the State of West Virginia, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Kanawha brand selected rice,—Lewis, Hubbard & Company, distributors, Charleston, W. Va.,—Insist on having Kanawha brand rice,—The purchaser of this package insures to the consumer an ever uniform quality,—Kanawha rice."

Misbranding of the product was alleged in the libel for the reason that the said cases did not contain rice as the label and markings thereon would indicate, but contained a product that was coated with glucose and talc, and said branding and markings on the cases were misleading and false so as to deceive and mislead the purchaser.

On December 11, 1911, the said Lewis, Hubbard & Co., claimant, having paid the costs of the proceedings and executed bond in the sum of $1,000 in conformity with section 10 of the act, it was ordered by the court that the product be delivered to said claimant and that the proceeding be dismissed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2814. Misbranding of lithia water. U. S. v. S. A. Scammon. Plea of nolo contendere. Fine, $15. (F. & D. No. 3166. I. S. No. 19921-c.)

On March 19, 1912, the United States Attorney for the District of New Hampshire acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against S. A. Scammon, Temple, N. H., alleging shipment by said defendant, in violation of the Food and Drugs Act, on June 8, 1911, from the State of New Hampshire into the State of Massachusetts, of a quantity of lithia water which was misbranded. The product was labeled: "Pack Monadnock Lithia Spring Water, the most wonderful natural Lithia Spring water now known in the world as the analysis of Prof. Thomas Heys given below will show: Bi Carbonate of Lithium 15.408 Bi Carbonate of Soda 5.262 Bi Carbonate of Iron .304 Carbonate of Lime .770 Carbonate of Magnesia .294 Sulphate of Potassium .511 Chloride of Potassium .180 Chloride of Sodium .340 Bromide of Sodium traces Silica and Aluminum .980 Free and combined Ammonia .008 24.057 recommended for Gout, Dyspepsia, Rheumatism, Eczema, Sugar Diabetes, Bright's Disease, Gall Stones; also reduces temperature in all fevers; and all diseases of the kidneys, asthma, etc. as beautifier of the complexion it has no equal. Directions: To receive the most benefit it should be used freely, can be used warm with equally good results:"

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Total solids at 110° C. (mg per liter), 62; total solids at 180° C. (mg per liter), 60; no weighable amount of lithium found in 2,000 cc; spectroscopic test shows less than 0.01 mg per liter of lithium. Label claims 22.61 mg per liter of lithium. Sanitary analysis: Free ammonia, less than 0.001 mg per liter; albuminoid ammonia (mg per liter) 0.004; nitrogen as nitrites, none; nitrogen as nitrates (mg per liter), 0.02; chlorine (mg per liter), 4.00. Misbranding of the product was alleged in the information for the reason that it was labeled as set forth above, which statement set forth and published on the label was not true, in that the product or contents of said package, bottle, or receptacle, to wit, said so-called lithia water, did not contain enough lithium to warrant it to be classified as a lithia water and did contain only an unweighable spectroscopic trace of lithium. Misbranding was alleged for the further reason that the label aforesaid was false and misleading, the package being labeled "Bi Carbonate of Lithium 15.408 grains per Imperial Gallon," indicating that it contained 22.61 milligrams per liter of lithium, when in fact only an unweighable spectroscopic trace of lithium was present.

On May 1, 1913, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of $15.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2815. Misbranding of damiana tonic Compound. U. S. v. S. Hirsch Distilling Co. Plea of guilty. Fine, $100 and costs. (F. & D. Nos. 3171 and 3172. I. S. Nos. 6682-c and 13004-c.)

On July 19, 1912, the United States Attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in two counts against the S. Hirsch Distilling Co., a corporation doing business under the trade name of Minuet Cordial Co., Kansas City, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 10, 1909, and December 9, 1910, from the State of Missouri into the State of California and the then Territory, now State, of New Mexico, respectively, of quantities of so-called damiana tonic compound which was misbranded. The product was labeled: "Damiana Tonic Compound Guaranteed under Food & Drugs Act June 30, 1906 Serial No. 5897."

Analysis of samples of the product by the Bureau of Chemistry of this Department showed the following results: Sample from first consignment, alcohol (per cent by volume), 35.05; sample from second consignment, alcohol (per cent by volume), 35; sugars (grams per 100 cc), 9.35; ash, trace; damiana, present. Misbranding of the products was alleged in the information for the reason that there was contained in the product first shipped, 35.05 per cent of alcohol by volume, and in the second consignment 35 per cent of alcohol by volume, whereas the labels and brands on the bottles and each of them did not state the amount of alcohol so contained therein.

On November 14, 1912, the defendant company entered a plea of guilty to the information and on June 27, 1913, the court imposed a fine of $100 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2816. Misbranding of cheese. U. S. v. 150 Cheeses. Product released on bond by order of the court. (F. & D. No. 3186. S. No. 1169.)

On November 8, 1911, the United States Attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 150 cheeses remaining unsold in the original unbroken packages and in possession of Ruffner Bros., Charleston, W. Va., alleging that the product had been shipped from the State of Ohio into the State of West Virginia and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Crosby & Meyers, Cincinnati, Ohio." There was also on each container of the product the consignor's name, markings of factory, lot number, and pencil figures, which, according to trade custom, were indicative of net weight corresponding to amount entered in invoice.

Misbranding of the product was alleged in the libel for the reason that the branding as aforesaid was misleading and false so as to deceive and mislead the purchaser, for the reason that none of the cheeses contained as many pounds of food or cheese as they purported to contain, as evidenced by the weight markings on the outside of said cheeses, as containing the number of pounds marked thereon.

On November 25, 1911, the said Ruffner Bros., a corporation, claimant, having declared its willingness to pay the costs of the proceeding and having executed a bond in the sum of $500 in conformity with section 10 of the act, it was ordered by the court that the product be delivered to said claimant upon payment of the costs of the proceedings and that the suit be dismissed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2817. Adulteration of cherries. U. S. v. 20 Cases of Bottled Cherries. Product released on bond and payment of costs. (F. & D. No. 3187. S. No. 1166.)

On November 9, 1911, the United States Attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of five cases, each con-

taining one dozen bottles, and 15 cases, each containing four dozen bottles of cherries remaining unsold in the original unbroken packages and in possession of the Symns Grocery Co., Atchison, Kans., alleging that the product had been shipped on or about August 8, 1911, by the Long Syrup Refining Co., San Francisco, Cal., and transported from the State of California into the State of Kansas, and charging adulteration in violation of the Food and Drugs Act. The 5 cases were labeled: "1 dozen bottles Long's California Royal Anne Cherries in Maraschino flavor. Prepared by Long Syrup Refining Co., San Francisco, Calif., U. S. A." The bottles were labeled: "Long's California Royal Anne Cherries in Maraschino Flavor. Artificially colored. Prepared by Long Syrup Refining Co., San Francisco, Cal., U. S. A." (Neck label) "Long's Royal Anne Cherries in Maraschino Flavor. Artificially Colored." (On metal cap) "California Royal Anne Cherries, San Francisco, Calif., U. S. A." The 15 cases were labeled: "4 dozen bottles Long's California Royal Cherries in Maraschino Flavor. Prepared by Long Syrup Refining Co., San Francisco, Calif., U.S.A." (Main label) "Long's California Royal Anne Cherries in Maraschino Flavor, Artificially Colored. Prepared by Long Syrup Ref. Co., San Francisco, Cal., U.S.A." (Neck label) "Long's Royal Anne Cherries in Maraschino Flavor, Artificially Colored."

Adulteration of the product was alleged in the libel for the reason that the analysis thereof showed that the cherries contained in each of the bottles were in an artificial flavor derived largely or wholly from artificial esters and not in maraschino flavor as shown from the labels upon each of the bottles and cases, being in an imitation flavor having no resemblance to maraschino, in violation of section 7 of the Food and Drugs Act of June 30, 1906, paragraph 2 (34 Stat., 770).

On September 26, 1912, the Long Syrup Refining Co., claimant, having admitted the allegations in the libel and that the product was misbranded as set forth therein, it was ordered by the court that the product should be released to said claimant upon filing of bond in the sum of $500 in conformity with section 10 of the act and the payment of all costs of the proceedings.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2818. Misbranding of rice. U. S. v. 150 Bags of Rice. Product released on bond by order of court. (F. & D. No. 3236. S. No. 1190.)

On November 22, 1911, the United States Attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 150 bags, each containing 100 pounds of rice, remaining unsold in the original unbroken packages and in possession of Lewis, Hubbard & Co., a corporation, Charleston, W. Va., alleging that the product had been shipped from the State of New Orleans (?) (Louisiana), to the State of West Virginia, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Fancy head 100—rice—coated with glucose and talc—remove by washing before using."

Misbranding of the product was alleged in the libel for the reason that none of the bags or packages contained rice as the labels and markings on said bags or packages would indicate, but contained a product not fancy head rice, but consisting almost entirely of broken rice classed as about No. 2 screenings, and said branding and markings on said bags or packages were misleading and false so as to deceive and mislead the purchaser.

On December 9, 1911, the said Lewis, Hubbard & Co., claimant, having paid the costs of the proceedings and executed bond in the sum of $1,000 in conformity with section 10 of the act, it was ordered by the court that the product be delivered to said claimant and that the proceeding be dismissed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2819. Adulteration of tomato catsup. U. S. v. 90 Barrels of Tomato Catsup. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 3262. S. No. 1201.)

On December 1, 1911, the United States Attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 90 barrels of tomato catsup remaining unsold in the original unbroken packages at Boston, Mass., alleging that the product had been shipped by the Huss-Edler Preserve Co., Chicago, Ill., and transported from the State of Illinois into the State of Massachusetts, and charging adulteration in violation of the Food and Drugs Act. The product bore no label.

Adulteration of the product was alleged in the libel for the reason that it consisted in part of filthy, decomposed, and putrid animal and vegetable substance.

On February 5, 1913, Fred C. Edler, doing business as the Huss-Edler Preserve Co., claimant, having failed to appear, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be destroyed by the United States marshal, and that the costs of the proceedings, amounting to $101.18, be recovered of said claimant.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2820. Alleged misbranding of gin. U. S. v. 36 Bottles of London Dry Gin. Tried to the court and a jury. Verdict for claimant. Motion for a new trial refused. Bill of exceptions, assignments of error, petition for writ of error and writ of error filed. Judgment of district court reversed by the United States Circuit Court of Appeals for the Third Circuit and a new trial granted. (F. & D. No. 3265. S. No. 1223.)

On January 8, 1912, the United States Attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of three cases each containing 12 quart bottles of gin remaining unsold in the original unbroken packages at Philadelphia, Pa., alleging that the product had been shipped on or about December 19, 1911, and transported from the State of New York into the State of Pennsylvania, and charging misbranding in violation of the Food and Drugs Act. The product was labeled "Sir Robert Burnett & Co. Celebrated Trade Mark London Dry Gin Distilled in New York, as at Vauxhall Distillery, London, in glass stoppered bottles which will entirely prevent any possibility of discoloration or loss from evaporation. By this arrangement corkscrews are entirely superseded. Direction.—The stopper is taken out by pressing the thumb first on one side and then on the other." (Blown in bottle) "Sir Robt. Burnett & Co. London Dry Gin."

Misbranding of the product was alleged in the libel for the reason that it was labeled and branded so as to purport to be a foreign product when not so, in that each of the bottles bore a label in substance and character as set forth above by virtue of which said label and brand the article purported to be a foreign product, to wit, a product of London, in the Kingdom of Great Britain, whereas, in truth and in fact, the said article of food was not a product of London in the Kingdom of Great Britain, but had been produced in the city of New York, in the State of New York, in the United States of America.

On February 2, 1912, Sir Robert Burnett & Co. (Inc.), claimant, New York, N. Y., filed its demurrer and exceptions to the libel, which were argued on February 5, 1912, and on February 7, 1912, the exceptions to the libel were overruled, without prejudice, as will more fully appear in the following opinion by the court:

McPherson, *C. J.* With nothing whatever before me except the libel and the claimant's objections (whether they are named exceptions or demurrers is of slight importance), I do not think I should decide now that this libel is either sufficient or insufficient. The district court in Michigan (United States *v.* Schurman, 177 Fed. 581) evidently had affidavits before it showing certain facts which influenced the decision; the ruling does not rest upon the mere language of the libel.

The objections are overruled, but without prejudice, etc.

On October 22, 1912, claimant's answer to the libel was filed and on October 23, 1912, an amended libel was filed in which it was charged that the product was further misbranded in that it was labeled and branded so as to deceive and mislead the purchaser thereof and to purport to be a foreign product when not so, in that the principal label thereon, as hereinabove set forth, was in resemblance and similitude as to arrangement and design to a label and brand which had theretofore been widely used and was well known to the trade in connection with and as theretofore borne upon a genuine imported gin, the product of, and represented to be the product of, London, England, which resemblance and similitude as aforesaid was calculated to deceive and mislead the purchaser of the said article into believing that said article was the product of London, England, and by virtue of which said resemblance and similitude the said article purported to be a foreign product, to wit, a product of London, England, whereas it was not a product of London, England, but was a product of the United States of America.

On April 25, 1913, the case came on for trial before the court and a jury and after the submission of evidence and argument by counsel the following charge was on April 26, 1913, delivered to the jury by the court:

McPherson, *Judge*. Gentlemen of the Jury: My instructions to you will be very brief, because I think you will probably have seen for yourselves, from the discussion to which you have listened, that this is a comparatively narrow question. Indeed, I may leave out the adverb and say that it is a narrow question. The Government's case depends entirely, I may say,—certainly it depends essentially—upon the sense in which the word "London" is used upon this label. The label that is complained of speaks of "London Dry Gin." It also adds—I forget the precise phrase—"Distilled in New York," I think, "as in Vauxhall, London." But the Government's complaint is essentially based upon the use of the word "London" in the phrase "London Dry Gin"; for evidently if there was no such word upon the label, the Government would have no case. If the label simply said "Dry Gin" there would of course be no case here.

Now this proceeding has been brought under the Pure Food Law, to which reference has been made, and it is not the ordinary civil suit, neither is it the ordinary criminal suit. It occupies a place between those two proceedings. It is a suit to enforce a penalty, and it was begun on the part of the United States by seizing the property that is, in effect, before you now. Two seizures were made, but the cases are being tried together. Each of them concerns three dozen bottles of this gin. The attempt is made by the Government to forfeit that property, that is, to take it away from the claimants, this company which is defending the suit, and to destroy it, or to take some other means of disposing of it; at all events, to forfeit and take it away from the claimants. Now that is a remedy which is severe. It is an unusual remedy to be invoked. The ordinary suit is a proceeding with which you are entirely familiar, where two citizens meet each other in court to dispose of a difficulty between them and which is settled according to the ordinary methods of procedure. There the plaintiff is only obliged to make out his case by the fair weight of the evidence, and, if he offers evidence which is better than his opponent's, even if it is only slightly better than his opponent's, he is entitled to his verdict. That is what we mean, as you know, by the fair weight of the evidence, or preponderance of the evidence. That is the rule in a civil suit. Now if a man is charged with a crime, a much more severe burden is imposed upon the Government in that case; for the Government is always the complainant in a criminal suit. The Government is there obliged to make out its case by evidence that is much stronger; that is, evidence beyond a reasonable doubt. I need not dwell upon that. You have often, no doubt, in your experience in courts, been instructed with regard to that matter. Now the case we are trying comes between those two kinds of cases. It is much more severe than the first remedy and it is not as severe as the second, because there is nobody here charged with a crime and no punishment can be inflicted upon any person in consequence of the verdict. But the result of the verdict, if in favor of the United States, would be to take this property away from the owner and, therefore, the remedy is a severe remedy, and, as I think, the rule with regard to the burden upon the Government is also heavier than if it were an ordinary suit between individuals. I think the Government is bound to offer evidence that is—what language shall I use? Clear and satisfactory has sometimes been said; clear and convincing is another way in which it has been put. I am aware that I am not giving you very definite ideas upon the subject, but the nature of the subject is such that I can not give you definite and positive ideas. I must use

general terms to describe it, and I do not know that I can do better than to say that the Government must offer better evidence than just the mere weight, if you were weighing, if you were deciding between parties. It must be stronger and better evidence than that and I have already said, and I say it again, that it must be clear and satisfactory, or clear and convincing, and with that I shall leave it. If the evidence is not, in your judgment, of that character, then the Government has failed to offer the kind of evidence which the law lays upon it, requires it to offer, and your verdict would have to be in favor of the defendant.

Now that brings me to what I desire to say with respect to the charge itself. The Government puts the charge in two different ways. The evidence is substantially the same as to each, but they rest upon different provisions in the statute and they do differ, in my judgment, in a certain degree. One of the charges which the Government lays before you in each of these cases is based upon the provision of section 8, which refers to "any food product which is falsely branded as to the State, Territory or country in which it is manufactured or produced," and the Government has, in part of its written charge, declared that this article was falsely branded with regard to the country where it was produced. Now that charge may be made out by evidence which shows that the label does not tell the truth with regard to the country where the article was produced. It makes no difference whether that failure to tell the truth was the result of design or was merely unintentional or accidental. The act of Congress has chosen to punish the failure to tell the truth on that subject and, therefore, if this label does not tell the truth with regard to the country in which this gin was produced, then the Government has made out its case under this particular portion of the statute.

Now, as I have said, the case of the United States rests essentially upon the use of this word "London" in connection with the words "Dry Gin." What, then, does "London Dry Gin" mean? This is a question of fact which I intend to submit to you. Does it mean a particular kind of gin, entirely irrespective of the place where the gin was manufactured, or does it mean gin that was made in London? You have heard in argument various suggestions upon one side or the other about that; for example, Saratoga potatoes. Nobody supposes that that means potatoes made in Saratoga. French fried potatoes, if I may continue the use of that vegetable—nobody supposes they are fried in France; and so one might go on. On the other hand, there are words that have a geographical meaning and have no other. I will not give any examples of them, for fear I might not get one that was exactly right, but, as you know perfectly well, there are such words, pure geographical words, that have that meaning and have no other. Now the Government says that this word "London" in this phrase "London Dry Gin" means, geographically, that the gin was produced in London and was not produced anywhere else. On the other hand, the case of the defendant is that this word has come to have, in the course of usage, a meaning which is not geographical, but refers to the qualities and the kind of article which has been produced here before you. Now what is the fact? I submit it to you for your determination. If this word in this phrase "London Dry Gin" has come to have a meaning in reference to the kind of article and does not refer to the place where it was made, then the Government's case entirely disappears and your verdict would have to be in favor of the defendant. I shall not go over the evidence. It would be superfluous, as it has been discussed and you only heard it yesterday. As you will recall, there is evidence on both sides of that question, and you must take the evidence and decide for yourselves what the fact is as to that subject.

Now, that is the first charge that is presented here by the Government. The second differs essentially in this respect: The Government charges that this label was framed for the purpose of deceiving and misleading the purchaser. Now you see that introduces an element we have not in the first charge, namely, the intention of the person that made the gin, the distiller of the gin. What is the fact in that regard? The evidence that has been offered here upon one side or the other—I mean with reference to the other branch of the case—has some bearing upon this branch also and, in addition to that, there is evidence that has a bearing only upon this branch of the case, namely, the evidence offered by the defendant with regard to what took place before the Secretary of Agriculture and before one of the agents of that Department in New York. That, in my judgment, bears upon the question of intention and I submit it to the jury, for their determination, to be weighed by them in that regard. Taking all the evidence, then, upon the subject—and I think all the evidence in the case bears upon the second branch of it, namely, the intention to deceive; the character of the label itself, the type in which it is printed, the communications and proceedings before and with the Department of Agriculture and all the other evidence in the case upon the subject—decide whether or not the second branch of the Government's charge has been made out, namely, that this label was adopted and has been used for the purpose of deceiving and misleading the purchaser.

Now that is the case before you which is to be made out by the Government on one or both of those charges, by the quality of evidence to which I have referred; and, in order that we may know with definiteness just what your conclusions may be, I shall ask the jury to answer these questions as part of their verdict, no matter whether they find in favor of the United States or find in favor of the defendant. The questions are so framed that you can answer them either yes or no. There are only three of them, and they are brief.

The first question is: Is there a distinct kind of gin known as London dry gin? The answer to that will be yes or no.

The second question is: If there is, must this kind of gin be made in London and nowhere else? Of course, you can answer that also yes or no.

The third question refers more particularly to the second charge of the Government. It is this: In using the label in suit, did the maker of the gin intend to deceive or mislead the purchaser by representing the gin to be a foreign product when, in truth, it was not a foreign product? That you can answer yes or no. I am not going to ask you to remember those questions. I will give them to the foreman.

Mr. Johnson has just called my attention to what he supposed to be an omission, namely, that I had not referred to the fact that the label contained the words "Distilled in New York as in Vauxhall, London." But, as you remember, I did so allude to it, but I mention it again in case there is to be any doubt on the subject. Besides, you will have the label before you, so that you can inspect it for yourselves.

I answered the defendant's first point in the charge and the second point I refuse.

Mr. Brinton. May I record an exception? It is rather a statement to the court than an exception. The Government most respectfully excepts to that portion of the charge which advises the jury that the Government's case relies almost entirely, or practically entirely, upon the use of the word "London," for the reason that the Government relies equally upon the charge that the label used by the defendants is in similitude and resemblance to the imported label, and, in this connection, the Government respectfully urges that the Court has adopted a view of the second charge of the libel which is not the meaning which was intended to be given to it, or which it holds, or should hold. The second charge of the libel charges that "the principal label thereon as hereinabove set forth was then and there in resemblance and similitude as to arrangement and design to a label and brand which had theretofore been widely used and was well known to the trade in connection with and as theretofore borne upon a genuine imported gin, then and there the product of, and represented to be the product of, London, England, which resemblance and similitude as aforesaid was then and there calculated to deceive and mislead the purchaser of the said article into believing that the said article was the product of London, England, and by virtue of which said resemblance and similitude the said article did then and there purport to be a foreign product," and the Government submits that that charge does not raise an issue of intention, but the issue as to whether this similitude between this label and the foreign label is, in itself, calculated to lead persons to believe that the article is a foreign product and, therefore, that it purports to be such. It certainly was not the intention to charge intention, as the Government conceded that is not the issue in this case.

The Court. In response to what the Government has said, if I did not allude to the foreign label, it was because I did not hear it much alluded to in the course of the trial or in the argument; but I am glad to have my attention called to it, and I say to you distinctly that, as the foreign label, that is the label on the foreign product, has been introduced in evidence here, it is before you for purposes of comparison with the domestic label and in order that you may give such weight to it as you think it ought to have in connection with the other instructions that I have given you. I decline to say to you that the intention of the defendant is of no consequence in this matter. If I understand what the implied meaning of the words "deceive" and "mislead" is, it necessarily means that there is an intention to lead somebody astray. I can not understand that you could talk of someone deceiving another unless he was intending to do it. Besides, the first part of this section, section 8, under which the first charge of the Government is drawn, I have explained to you, and that would cover a case where the mere facts were of the kind I have alluded to and where there was no question of intention in it at all. I can not see the point of having these two charges brought by the Government unless they were intended to be different, and, upon the construction just suggested to me, they are the same.

Mr. Brinton. The Government respectfully excepts to the submission by the court to the jury of the question substantially to the effect as to whether there is a distinct kind of gin known as London dry gin, submitting that the question, if such a question is to be submitted, should be to the effect as to whether there is a distinct kind or type of gin known generally throughout the trade of the United States as London dry gin.

The COURT. With regard to that suggestion, which is now made for the first time, I say that I think there is a good deal of force in that, as this gin in question was offered to the American public, and I accept the suggestion of the United States in that respect and you may so consider it.

The point for charge presented by the defendant, which was refused by the court without reading, is as follows:

"2. Under all the evidence, your verdict must be for the defendants."

Questions to be answered by the jury:

Q. No. 1.—Is there a distinct kind of gin known as London dry gin? A.—Yes.

Q. No. 2.—If there is, must this kind of gin be made in London and nowhere else? A.—No.

Q. No. 3.—In using the label in suit, did the maker of the gin intend to deceive or mislead the purchaser by representing the gin to be a foreign product when in truth it was not a foreign product? A.—No.

Thereupon the jury retired and after due deliberation returned into court with its verdict in favor of the claimant company.

On April 30, 1913, a motion for a new trial was filed on behalf of the United States and on May 15, 1913, a new trial was refused, as will more fully appear upon the following opinion by the court:

McPHERSON, *Circuit Judge.* It can hardly be doubted I think that the Government's treatment of the claimant in this dispute leaves something to be desired. In consequence of a difference of opinion between the Department of Agriculture and the claimant concerning the label now in question the subject was discussed and considered, and in the end the Department announced distinctly that the objection of misbranding would not be taken. The claimant thereupon proceeded to use the label for 9 months, when the Department changed its mind without previous warning, and, without giving the claimant an opportunity to conform to its new attitude, made two separate seizures, taking the position now that the bottles *were* misbranded. Under the circumstances this seems rather drastic action and can hardly be commended; at all events, it leaves the Government without apparent equity in its favor.

Neither, I think, is any legal support left in view of the special findings that accompanied the general verdict. The indispensable basis of the attack upon the label is the averment that "London Dry Gin" is a descriptive phrase, which points to the place of origin and not the kind of liquor. If, however, "London Dry Gin" describes a well-known liquor, having certain characteristics that identify it wherever it may be made, the Government's case is wholly without foundation, no matter under which clause of section 8 of the Food and Drugs Act the seizure may be defended. And this is precisely the point upon which the evidence conflicted, and is precisely the point determined by the jury in two special findings that make part of the verdict. Two of the questions put by the court and the answers thereto are as follows:

1. Is there a distinct kind of gin known as London dry gin?

Answer: Yes.

2. If there is, must this kind of gin be made in London and nowhere else?

Answer: No.

These findings I think conclusively repel the charge of using a label forbidden by the act; and (if the claimant had a right to use the label) it is immaterial to consider the questions raised by the Government upon the subject covered by the third question and answer:

3. In using the label in suit, did the maker of the gin intend to deceive or mislead the purchaser by representing the gin to be a foreign product?

Answer: No.

Of course the verdict does not and cannot, lay down a general rule even in reference to this particular phrase. The jury necessarily acted upon a certain amount and quality of evidence, and as this might not be present in another dispute with another claimant, the verdict can do no more than settle the one controversy that was in issue.

Altho the instructions to the jury concerning the quality of evidence required to make out the Government's case are not complained of, I may say briefly that a difference of opinion on this subject no doubt exists. A decision by the court of appeals in the fourth circuit—Grain Distilling Co. *v.* United States, 24 Treasury Decisions (Mar. 13, 1913), p. 74, No. 1837—having been called to my attention, I may cite a recent opinion in the contrary sense by the court of appeals in the second circuit—United States *v.* Regan, 203 Fed. 433.

The motion for a new trial in each case is refused.

On May 29, 1913, a bill of exceptions was filed on behalf of the Government and on July 22, 1913, the final decree of the court was entered. By the terms of this decree it was ordered, first, that the motion by the libellant for a new trial upon the issues of fact by the jury be refused; second, that the findings of the jury in favor of the claimant upon the issues of fact submitted to them be confirmed, and that in accordance therewith the libel filed in the cause be dismissed and the costs of the cause be borne by the libellant, and third, that the United States marshal forthwith deliver the product seized under the authority of the writ issued in the cause to the claimant, Sir Robert Burnett & Co. On July 25, 1913, assignments of error and a petition for a writ of error were filed on behalf of the Government, and an order allowing writ of error was filed and said writ of error was allowed and same is now pending to the United States Circuit Court of Appeals for the Third Circuit. On February 2, 1914, the case having come on for hearing in the Circuit Court of Appeals, before Gray and Buffington, Circuit Judges, and Young, District Judge, the judgment of the court below was reversed and a new trial granted, as will more fully appear from the following decision by the court:

YOUNG, *D. J.* This is a proceeding by the United States for the condemnation of certain bottles of gin alleged to be misbranded in violation of the Food and Drugs Act of June 30th, 1906. The 8th section of that act provides that an article shall be deemed to be misbranded, "if it be labeled or branded so as to deceive or mislead the purchaser or purport to be a foreign product when not so." The cause went to trial before a jury upon the libel and amended libel and answer thereto by Sir Robert Burnett and Company, the claimant. The libel alleges that the bottles were labeled and branded so as to purport to be a foreign product, whereas they were in fact a domestic product. The amended libel alleges that the bottles were labeled and branded so as to deceive and mislead purchasers thereof and to purport to be a foreign product when not so.

The assignments of error raise the single question whether or not in a proceeding under the Food and Drugs Act for the condemnation of misbranded articles the intent of the claimant is a necessary ingredient in the determination of the case. The learned trial judge admitted evidence, over the Government's objection, for the purpose of showing good faith in the branding and absence of an intention to deceive. The court also submitted the question of intent as follows:

"The third question refers more particularly to the second charge of the Government. It is this: In using the label in suit, did the maker of the gin intend to deceive or mislead the purchaser by representing the gin to be a foreign product, when in truth, it was not a foreign product."

Under the libel and amended libel the sole question was whether the packages were so labeled and branded as to deceive and mislead the purchaser. This was not the question submitted to the jury, but the question submitted to the jury was, as we have seen, did the maker of the gin intend to deceive or mislead the purchaser?

The court was in error in submitting the question of intention to the jury. The Food and Drugs Act nowhere requires proof of intention by the use of the words knowingly, wilfully, or such like words. The language of section 8—in the case of food—subsection second, of the act is: "If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so." This language clearly means, if the label deceives or misleads the purchaser; if the purport of the label be that it is a foreign product when it is not so. This the label and the label alone must determine. The intention of the user to deceive is of no consequence. The act strikes at deceiving the public by selling them one thing when they desire to purchase another. As has been frequently said by courts, the purchaser has the right to choose for himself what he will purchase, and when he has purchased the right to receive that which he desires and not something else. It would be destructive of the act, nullify it entirely, to allow the intent of the maker to be considered as a defense. We believe the decided cases sustain the principle that the intent is not a necessary ingredient in the determination of the case.

In McDermott *v.* Wisconsin, 228 U. S. 115, it is said by Mr. Justice Day on page 132:

"The label upon the unsold article is in the one case the evidence of the shipper that he has complied with the act of Congress, while in the other by its misleading and false character it furnishes the proof upon which the Federal authorities depend to reach and punish the shipper and to condemn the goods. If truly labeled within the meaning of the act his goods are immune from seizure by Federal authority; if the label is false or misleading within the terms of the law, the goods may be seized and condemned. In other words, the label is the means of vindication or the basis

of punishment in determining the character of the interstate shipment dealt with by Congress."

It is the purchaser that is to be protected.

"The purchaser has a right to determine for himself which he will buy and which he will receive and which he will eat. The vendor cannot determine that for the purchaser. He, of course, can make his arguments, but they should be fair and honest arguments"; United States *v.* 100 Cases of Tepee Apples, 179 Fed. Rep. 987.

In United States v. Johnson, 221 U. S. 488, Mr. Justice Holmes says, at page 497:

"In further confirmation it should be noticed that although the indictment alleges a wilful fraud, the shipment is punished by the statute if the article is misbranded, and that the article may be misbranded without any conscious fraud at all."

In the District of Columbia *v.* Lynham, 16 App. D. C. 85, it is said:

"It was no defense for a druggist prosecuted for selling an adulterated drug in violation of the act of Congress February 17, 1898, 30 Statutes 246, relating to the adulteration of food and drugs in the District of Columbia, to show simply that he was at the time of sale ignorant of the fact that the drug was adulterated, as he must know what he sells or purports to sell, and that it conforms to the standard prescribed by law."

In United States *v.* Five Boxes of Asafoetida, 181 Fed. Rep. 561, it is said by Judge Holland:

"The article of food or drug adulterated or misbranded is declared to be forfeited as an offending thing which threatens the health of the citizen and therefore subject to seizure without regard to the acts or knowledge of the owners or claimants."

For these reasons, the judgment must be reversed and a new trial granted.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 2, 1914.*

2821. Misbranding of cheese. U. S. v. A. H. Barber & Co. Plea of guilty. Fine, $100. (F. & D. No. 3295. I. S. No. 3038-d.)

On May 3, 1913, the United States Attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against A. H. Barber & Co., a corporation, Chicago, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on August 3, 1911, from the State of Illinois into the State of Georgia, of 100 boxes of cheese which was misbranded. The product was labeled: "Superlative Full Cream Cheese." Each of the boxes also bore a figure marked thereon indicating the net weight of the cheese contained therein.

Examination of the product by the Bureau of Chemistry of this Department showed that the actual weight of the cheese contained in said 100 boxes was 2,096 pounds, while the sum of the marked weights on the 100 boxes was 2,147 pounds, making a shortage of 51 pounds, or 2.37 per cent. Misbranding of the product was alleged in the information for the reason that said 100 boxes, and each of them, bore figures indicating the net weight of the product contained in each of said boxes and which said figures borne upon 47 of the 100 boxes containing the product were false and misleading, in that the figures upon each of the 47 boxes purported to state the net weight of the article contained in each of said 47 boxes, whereas, in truth and in fact, each of the 47 boxes did not contain the net weight of the product indicated by the figures borne upon each of the 47 boxes, but contained a much less quantity, to wit, one pound less than the net weight of the product indicated by the figures borne upon each of the boxes. Misbranding was alleged for the further reason that said figures borne upon 47 of the boxes deceived and misled the purchaser into the belief that said figures on each of the 47 boxes purported to state the net weight of the product contained in each of said boxes, whereas, in truth and in fact, each of the 47 boxes did not contain the net weight of the product indicated by the figures borne upon each of said boxes, but contained a much less quantity of the product, to wit, one pound less than the net weight of the product indicated by the figures borne upon each of the 47 boxes aforesaid. Misbranding was alleged for the further reason that the product contained in the 47 boxes aforesaid, when it was shipped, was in package form and the figures that appeared upon the outside of each of the 47 boxes purported to state the con-

tents of each of said boxes in terms of weight, whereas, in truth and in fact, the figures that appeared upon the outside of each of said boxes did not correctly state, in terms of weight, the contents of each of said 47 boxes, but said figures stated the contents in terms of weight in excess of the quantity of the product actually contained in each of said 47 boxes, to wit, one pound in excess of the net weight of the product contained in each of said boxes. Misbranding was alleged for the further reason that the product was in package form and the figures that appeared upon the outside of each of the 47 boxes aforesaid purported to state the quantity of the contents of each of said boxes in terms of weight, whereas, in truth and in fact, the figures that appeared upon the outside of each of said boxes did not correctly state, in terms of weight, the quantity of the contents of each of the 47 boxes, but said figures stated the quantity of the contents in terms of weight in excess of the quantity of the product actually contained in each of said boxes, to wit, one pound in excess of the net weight of the product contained in each of said 47 boxes.

On June 19, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $100.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2822. Adulteration and misbranding of peach brandy. U. S. v. Emil Nathan and E. D. Ullman (American Supply Co.). Pleas of guilty. Fine, $10 and costs. (F. & D. No. 3301. I. S. No. 14989-c.)

On July 6, 1912, the United States Attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Emil Nathan and E. D. Ullman, copartners, doing business under the firm name and style of American Supply Co., St. Louis, Mo., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about June 2, 1911, from the State of Missouri into the State of Illinois, of a quantity of peach brandy which was adulterated and misbranded. The product was labeled: "XX Peach Brandy Compounded with grain distillate." (On strip label of cork) "American Supply Co. Memphis, Tenn." and "See that this seal is unbroken."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids (grams per 100 cc)	0.173
Sweet, yellow, no flavor.	
Esters as ethyl acetate (grams per 100 liters)	19.36
Alcohol (per cent by volume)	39.40
Methyl alcohol	None.
Color, no coal tar, no turmeric, all water-soluble, appears artificial.	
Volatile acids as acetic (grams per 100 liters)	3.9
Ash (grams per 100 cc)	0.003
Reducing sugars (grams per 100 cc)	0.0114
Flavor indicates absence of peach, not like brandy.	

Adulteration of the product was alleged in the information for the reason that it was labeled and sold as "peach brandy compounded with grain distillate," whereas a substance, to wit, grain distillate diluted with water, had been mixed and packed with the product so as to, and it did, reduce, lower, and injuriously affect its quality and strength; and further in that the product was labeled and sold as peach brandy compounded with grain distillate, when a substance, to wit, grain distillate diluted with water, had been substituted wholly or in large part for the article. Misbranding was alleged for the reason that the statement upon the bottle and product, to wit, "Peach Brandy Compounded with grain distillate," was false and misleading because it deceived the purchaser thereof into the belief that it consisted principally of peach

brandy, when, in truth and in fact, it did not consist chiefly of peach brandy, but consisted principally of grain distillate diluted with water. Misbranding was alleged for the further reason that the product was labeled and branded as aforesaid so as to, and it did, deceive and mislead the purchaser, being labeled in large type "Peach Brandy" while the words "Compounded with grain distillate" were much smaller and of obscure type, and the product was thereby labeled so as to, and it did, mislead and deceive the purchaser into the belief that it consisted chiefly of peach brandy, whereas it consisted chiefly of grain distillate diluted with water.

On January 11, 1913, the defendants entered pleas of guilty to the information, and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2823. Adulteration of eggs. U. S. v. W. L. Poynter et al. (C. Y. Tully & Co.). Plea of guilty. Fine, $25 and costs. (F. & D. No. 3326. I. S. No. 9655-d.)

On February 3, 1912, the United States Attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against C. Y. Tully & Co., a partnership composed of W. L. Poynter, W. F. Young, and C. Y. Tully, Coffeyville, Kans., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about August 8, 1911, from the State of Kansas into the State of Missouri, of a quantity of eggs which were adulterated. The product was marked or labeled: "S. J. Hurst, Jr., Butter, Eggs and Poultry, 515 Grand Ave., Kansas City, Mo. Junior, from C. Y. Tully & Co., Coffeyville, Kansas." (Marked in pencil on top of case "(3)". Marked in pencil on end of case: "(3)".)

Examination of samples of the product by the Bureau of Chemistry of this Department showed the following results: Total eggs examined, 216; Class I, 179, 82.9 per cent; Class II, 17, 7.9 per cent; Class III, 20, 9.2 per cent. Class I is made up of about 50 per cent spots and blood rings, and the balance have large air spaces, soft yolks, and are generally stale; Class II, black mold spots forming or yolk breaking and mixing with white, but not actually decomposed. Class III, absolutely rotten. Adulteration of the product was alleged in the information for the reason that it consisted in whole or in part of filthy, decomposed, and putrid animal matter, a portion of the eggs containing spots and blood rings, other portions having large air spaces, soft yolks, other portions consisting of broken yolks mixed with whites, and other portions being absolutely rotten.

On May 6, 1913, defendants entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2824. Adulteration of Tomato Puree. U. S. v. 4,800 Cans of Tomato Puree. Tried to the court and a jury. Verdict for the Government. Decree of condemnation, forfeiture, and destruction. (F. & D. No. 3343. S. No. 1224.)

On January 4, 1912, the United States Attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 400 wooden boxes, each containing 12 one-gallon cans of tomato puree, remaining unsold in the original unbroken packages at Philadelphia, Pa., alleging that the product had been shipped on or about December 7, 1911, by the Covington Canning Co., Covington, Ind., and transported from the State of Indiana into the State of Pennsylvania, and charging adulteration in violation of the Food and Drugs Act. The product bore no labels.

Adulteration of the product was alleged in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance.

On October 16, 1913, the case having come on for trial before the court and a jury, the jury returned a verdict in favor of the Government. The following charge was delivered to the jury by the court:

THOMPSON, *Judge*. Gentlemen of the jury: This is a proceeding under the Pure Food and Drugs Act for seizure under condemnation of a number of packages of tomato puree which had been shipped in interstate commerce from one State to another, and it has been seized by the Government upon the charge, within the meaning of the act, of being adulterated.

The Pure Food and Drugs Act defines adulteration in this manner, as I recollect it. An article of food shall be deemed to be adulterated, within the meaning of the act, when it is composed, either in whole or in part, of a filthy, putrid or decomposed matter. Now, you have heard the evidence in this case, and the question for you to determine is whether this food is adulterated within that definition, whether it consists, in whole or in part, of a filthy, decomposed or putrid vegetable matter. If you are satisfied from the evidence that it does, then your verdict should be for the libellant—that is, for the United States. If you are not satisfied from the evidence that the Government has sustained its contention that the food is filthy, decomposed or putrid, then you should find a verdict in favor of the respondent.

On October 21, 1913, the court rendered its decree of condemnation and forfeiture and it was ordered that the product should be destroyed by the United States marshal.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 3, 1914.*

2825. Adulteration and misbranding of syrup. U. S. v. 400 Jacket Cans of Syrup. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 3370. S. No. 1245.)

On January 24, 1912, the United States Attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 400 jacket cans of syrup remaining unsold in the original unbroken packages and in possession of Haas, Baruch & Co., Los Angeles, Cal., alleging that the product had been shipped on or about November 15, 1911, by the Towle Maple Products Co., St. Paul, Minn., and transported from the State of Minnesota into the State of California, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Palace Drips put up for Haas Baruch & Company, Los Angeles, California."

Adulteration of the product was alleged in the libel for the reason that, by the substitution of glucose in the amount of 71 per cent of the whole, the product was injuriously affected in quality and in strength, in violation of paragraphs 1 and 2, section 7, of the Food and Drugs Act. Misbranding was alleged for the reason that the label of the product was false and misleading in that the word "Drips" in the label indicated a syrup containing no glucose and obtained by draining crystallized sugar, but, in truth and in fact, the contents of said cans, instead of being a product obtained by draining crystallized sugar, was a product obtained by combining glucose in the amount of 71 per cent with sugar drips and other products in the amount of 29 per cent, and such substitution of said combination of glucose and other products for the sugar "Drips" indicated by the label above set out constitutes and was an imitating of another article having a distinctive name, to wit, the name "Drips," in violation of section 8, paragraph 1, of the Food and Drugs Act in the case of foods.

On April 15, 1912, the said Haas, Baruch & Co., agent, on behalf of the Towle Maple Products Co., claimant, having filed their claim and a stipulation admitting the allegations in the libel, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be released to said claimant upon payment of the costs of the proceedings, amounting to $45.29, and the execution of bond in the sum of $500, in conformity with section 10 of the act.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 3, 1914.*

2826. Adulteration of fish. U. S. v. 2 Barrels of Fish. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 3393. S. No. 1260.)

On February 5, 1912, the United States Attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of two barrels each containing 200 pounds of fish, remaining unsold in the original unbroken packages at Montgomery, Ala., alleging that the product had been shipped on or about February 3, 1912, by the Warren Fish Co., Pensacola, Fla., and transported from the State of Florida into the State of Alabama, and charging adulteration in violation of the Food and Drugs Act. The product was marked: "I. A. Kent & Co., Montgomery, Ala."

Adulteration of the product was alleged in the libel for the reason that it consisted in whole or in part of filthy, decomposed animal substance.

On July 1, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2827. Adulteration and misbranding of apricot cordial. U. S. v. Old 76 Distilling Co. Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 3396. I. S. No. 17720-c.)

On October 11, 1912, the United States Attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Old 76 Distilling Co., a corporation, Newport, Ky., alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 13, 1911, from the State of Kentucky into the State of Tennessee, of a quantity of so-called apricot cordial which was adulterated and misbranded. The barrels containing the product were labeled (on commercial head) "Cordial Apricot Flavor"; (on stamp end) "Cordial."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids, refractometer (per cent)	12.00
Nonsugar solids (grams per 100 cc)	1.18
Reducing sugars as invert (grams per 100 cc)	17.81
Ash (grams per 100 cc)	.0332
Ash, soluble in water (grams per 100 cc)	.0296
Ash, insoluble in water (grams per 100 cc)	.0036
Alkalinity of soluble ash (cc N/10 acid per 100 grams)	4.4
Esters (grams per 100 cc)	.0176
Alcohol (grams per 100 cc)	14.82

Adulteration and misbranding of the product was alleged in the information for the reason that each of the barrels was branded "Cordial Apricot Flavor," when said label and brand as aforesaid, was false and misleading because it deceived and was calculated to deceive the purchaser thereof into the belief that it was genuine apricot cordial, whereas, in truth and in fact, it was not a genuine apricot cordial, but was an imitation apricot cordial; and the product was adulterated in that an imitation apricot cordial had been mixed and packed with the contents of the barrels so as to reduce, lower, and injuriously affect its quality and strength, and a substitute, to wit, imitation apricot cordial, had been substituted wholly or in part for genuine apricot cordial. And said product was further adulterated and misbranded in that it was composed wholly or in part of an alcoholic solution of sugar and contained very little, if any, juice of the apricot.

On April 7, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2828. Alleged misbranding of liquid smoke. U. S. v. E. H. Wright, et al. Demurrer to evidence sustained by the court. (F. & D. No. 3410. I. S. No. 14939-c.)

On February 10, 1913, the United States Attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against E. H. Wright, George D. Wright, and T. W. Buckner, partners doing business under the firm name and style of E. H. Wright Co., Ltd., Kansas City, Mo., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about February 2, 1911, from the State of Missouri into the State of Indiana, of a quantity of so-called "Wright's Condensed Smoke" which was alleged to have been misbranded. The product was labeled: "Wright's Condensed Smoke A Liquid Smoke made by distilling wood for smoking all kinds of meats. No. 541. Guaranteed by E. H. Wright Co. under the Food and Drugs Act, June 30, 1906. It will preserve the meat for any length of time, keeping it solid and sweet and free from mold, skippers, flies and all other insects. It imparts a true Hickory Smoke flavor to meats, that can be obtained in no other way, making the meat perfectly wholesome and palatable. One bottle will smoke 250 to 300 pounds of meat. Price 75 cts. per Bottle. Every bottle guaranteed to be perfectly satisfactory or money refunded. Get the genuine Wright's Condensed Smoke Manufactured only by The E. H. Wright Co. Limited, Kansas City, Mo."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed that the sample had the general appearance, color, odor, and behavior on distillation of crude pyroligneous acid; that it contained methyl alcohol or a volatile methyl ester, calculated as methyl alcohol, approximately two-thirds gram per 100 cc. Misbranding of the product was alleged in the information for the reason that the label upon each of the bottles containing the product, wherein it was stated that the product was a liquid smoke made by distilling wood for smoking all kinds of meats, was false and misleading in that the product was not a condensed liquid smoke as stated on the labels, but, in truth and in fact, was crude pyroligneous acid. Misbranding was alleged for the further reason that the labels upon the bottles, wherein it was stated that the product was a liquid smoke made by distilling wood for smoking all kinds of meats, deceived and misled the purchaser into the belief that the product was a liquid smoke made by distilling the wood for smoking all kinds of meats, whereas, in truth and in fact, it was not a liquid smoke but a crude pyroligneous acid.

On May 5, 1913, the case having come on for trial before the court and a jury, the defendants entered pleas of not guilty, and at the close of the Government's case after argument of a demurrer interposed by defendants, the said demurrer to the evidence was sustained, as will more fully appear from the following opinion by the court:

Van Valkenburg, *Judge*. I have been following this very closely and I have read all of the citations suggested that I was not already familiar with. Now, I think this label itself, within the spirit and purview of this act, reads the Government out of court, and that, combined with what has been added in the way of testimony, but emphasizes that conclusion.

In the first place, it is clearly established from the Government's standpoint that there is no such thing as a condensed smoke, or liquid smoke; there is nothing but smoke, which can not be reduced to any such form as is stated here. Secondly, the defendant in this case has not been putting off his article as and for some other recognized article of commerce. If he has been representing that he has a thing here that will do what some other thing will do, that is an entirely different consideration; whether it will or not, we do not know, at least we do not know in this case, and that is immaterial to this particular form of charge. It is not charged that there is being perpetrated a cheat or fraud in the sense that he is putting off a worthless article or deleterious article, but simply that he is putting off on the public an article which is represented to be a specific article of commerce, which it is not. Smoke is not an article of commerce in the sense we are speaking of here, a commodity that can be bottled and confined and sent off as you can do with this product; but anyway, "Wright's Condensed Smoke, Liquid Smoke," now what is it? Why, it is made by distilling wood

for smoking all kinds of meats, and that is exactly what this stuff is, according to the evidence. Of course, you say this is not smoke, because smoke is not made by distillation, it is made by imperfect combustion; but this, on the face of it, is not something that would mislead the public into believing that it was identical with smoke. There is no one in the world, whether he be a technical man or a layman, who would be deceived into thinking this is smoke that goes up the chimney; everybody knows it is not that. They are addressing themselves to a specific commercial object, and that is the curing of meat, and they represent here that this is a liquid which is made from distilling wood, which, as you might say, is a fanciful or descriptive name referring to the object.

They use that term in a way no one can misunderstand. They use the technical term of "smoking" meat, and they tell you how to pour it over the meat, and by that means cure it, in a way that does not deceive anybody; they know it is a liquid. Now, whether its effects are deleterious, we do not know, and that has nothing to do with the question. Everybody who buys it knows that it is a liquid he is getting, and that there is no such thing as smoke in a liquid or condensed form which can be put up in bottles or cartons and carried around. The label goes on to say that it will preserve meat and impart a true hickory smoke flavor to the meat, and everything you get from this label merely goes to the effect that they have produced a liquid in a specified way, which is true.

The Government, in trying to show that this is not smoke produced by combustion, has shown that it is produced in exactly the same kind of way that is stated on that label. The fact is that they have produced something here which they say has something of the flavor and properties similar to the curative properties of smoke; they get it out of wood and they get it by distillation, and it turns out to be a substance like, if not exactly identical with, pyroligneous acid. Well, nobody could be deceived into thinking it was specifically what the indictment charges they are being deceived with. It is a thing which is produced in such a manner from the art and methods employed in it, that the application of the term "smoke" to it seems to me to be apt or applicable instead of deceptive, and it does not deceive in the sense this statute implies.

No one can be more in sympathy and harmony with the Food and Drug Act than I am, and for that reason I deprecate any effort to place a strained or unreasonable construction upon its terms, which can not help but bring it into disrepute and disrespect with the public. I am not saying this in criticism of the Department or of the district attorney. No doubt there is a point of view that perhaps can be taken in the sense in which this prosecution is leveled, but in its practical application, which is the application the courts in their last analysis must place upon it, it is not a prosecution which aims at the particular thing that this law, at least as construed, was aimed to affect in the sale of drugs and food.

The Supreme Court in the Johnson Remedy case says that the law can not be extended to include mere misrepresentations, or rather a mere question of whether the label properly indicates the effectiveness of the article. And in the Bleached Flour case, the court said that it could not be extended to include adulterations only to such an extent that there was enough to be clearly provable as deleterious to health. Those two features have been eliminated from this act, and if they are to be restored, or either of them, it rests with Congress, and the courts can not get around those points and extend the operative effect of this act by interpretations of the branding. If that is the intention of the Department, it must fail so far as this court is concerned. The term "misbranding" will not take the place of adulteration in some respects or of utility or effectiveness in others. It is for Congress to remedy the law if it is defective.

And, furthermore, in cases which are supposed to be cases of misbranding because of producing deception, it must be of such a substantial nature that the court, if it permitted it to go to the jury, and the jury should find a verdict sustaining the charge, could permit such verdict to stand. In this case I do not feel that I could do so and the demurrer to the evidence is sustained.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2829. Adulteration and misbranding of lemon flavor. U. S. v. Interstate Commerce Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 3448. I. S. No. 19484-c.)

On March 8, 1912, the United States Attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Interstate Commerce Co., a corporation, Richmond, Va., alleging shipment by said company, in violation of the

Food and Drugs Act, on April 26, 1911, from the State of Virginia into the State of North Carolina, of a quantity of lemon flavor which was adulterated and misbranded. The product was labeled: "Gold Medal Terpeneless Lemon Flavor. Trace of lemon oil and turmeric."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Lemon oil, none; citral, less than 0.01 per cent; alcohol (direct), 23.28 per cent; no artificial color detected. Adulteration of the product was alleged in the information for the reason that it was labeled "Terpeneless Lemon Flavor," whereas a highly dilute terpeneless lemon flavor had been, and was, mixed and packed with it in such manner as to reduce and lower and injuriously affect its quality and strength. Misbranding was alleged for the reason that the product was labeled as set forth above and the statement on the label was false and misleading in that it was calculated to convey the impression, and did convey the impression, that the article was a terpeneless lemon extract containing oil and turmeric, whereas, in truth and in fact, it was a highly dilute terpeneless flavor containing no oil of lemon or turmeric and was therefore labeled so as to deceive and mislead the purchaser.

On July 15, 1912, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs of $18.99.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2830. Adulteration and misbranding of lemon flavor. U. S. v. Charles H. Adams Co. (Ltd.). Tried to the court and a jury. Verdict of guilty. Fine, $100 and costs. (F. & D. No. 3456. I. S. No. 1392-d.)

On May 15, 1912, the United States Attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Charles H. Adams Co. (Ltd.), a corporation, New Orleans, La., alleging shipment by said company, in violation of the Food and Drugs Act, on or about May 29, 1911, from the State of Louisiana into the State of Texas, of a quantity of lemon flavor which was adulterated and misbranded. The product was labeled: "Rival Brand Artificial Lemon Flavor for ice cream, Jellies, Custard, Sauces, Cakes, Pastry. Manufactured by Chas. H. Adams Co., Ltd., New Orleans, La."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Specific gravity 15.6°C./15.6°C	0.9878
Alcohol (per cent by volume)	8.98
Methyl alcohol (per cent by volume)	None.
Solids (per cent)	0.037
Oil (per cent by volume):	
(*a*) By polarization	None.
(*b*) By precipitation	None.
Total aldehydes as citral (per cent by weight), not over	0.003
Color	Naphthol Yellow S

Taste extremely weak. Scarcely stronger than an ordinary product, like custard, flavored with lemon.

Adulteration of the product was alleged in the information for the reason that it was artificially colored in a manner whereby inferiority was concealed, in that the label thereon was such as to indicate to the purchaser that when mixed with ice cream, jellies, custard, sauces, cakes, pastry, etc., in reasonable and usual quantities, it would impart to same the flavor of lemon or of genuine lemon flavor when mixed with same in the usual and reasonable quantities, and said article had been colored with Naphthol Yellow S, so as to make it appear to have the same color and flavoring

strength as genuine lemon flavor, and in this manner the inferiority of the article, as compared with genuine lemon flavor, was concealed by so coloring it as to give it the color of genuine lemon flavor which was of a higher value than it, and so as to make the article appear of the same color, nature, and strength as genuine lemon flavor, which appearance it would not have had but for said added coloring, thus concealing the inferiority of the article so labeled, as compared with genuine lemon flavor. Misbranding was alleged for the reason that the product was labeled as set forth above and said label was such as to lead the purchaser to believe that when mixed in reasonable and usual quantities with ice cream, jellies, custard, sauces, cakes, pastry, etc., it would impart to them the same flavor as would be imparted to them by the mixture therewith of genuine lemon flavor in the same usual and reasonable quantities, whereas, in truth and in fact, the product was so dilute and the flavor thereof was so weak, that it would not impart, when mixed with ice cream, jellies, custard, sauces, cakes, pastry, etc., in the usual and reasonable quantities as aforesaid, any flavor whatever of lemon or of genuine lemon flavor, and said label bore a statement regarding the article and the ingredients thereof which was false and misleading, and said label was such as to deceive and mislead the purchaser of the article and in this manner the article was misbranded.

On June 20, 1913, the case having come on for trial before the court and a jury, a verdict of guilty was returned by the jury, and the court imposed a fine of $100 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2831. Adulteration and misbranding of canned salmon. U. S. v. 153 Cases of Canned Salmon. Consent decree of condemnation and forfeiture. Goods ordered destroyed. (F. & D. No. 3474. S. No. 1287.)

On or about February 28, 1913, the United States Attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 153 cases of canned salmon remaining unsold in the original unbroken packages at Norfolk, Va., alleging that the product had been shipped during the fall of 1911 by the Thlinket Packing Co., Portland, Oreg., and transported from Seattle, in the State of Washington, to the Holland-Council Co., Norfolk, Va., and charging adulteration and misbranding in violation of the Food and Drugs Act. Eighty-nine of the cases were labeled: "Coral Reef Brand Alaska Pink Salmon. Directions: To serve hot place can in boiling water for 20 minutes. Empty contents as soon as opened. Canned immediately after being caught." Thirty-four were labeled "Amazon Brand Alaska Medium Red Salmon. Directions: To serve hot place can in boiling water for 20 minutes. Empty contents as soon as opened. Canned immediately after being caught." Thirty cases were labeled: "Gold Bar Brand Alaska Red Salmon. Directions: To serve hot place can in boiling water for 20 minutes. Empty contents as soon as opened. Canned immediately after being caught."

Adulteration as to the 89 and 30 cases of the product was alleged in the libel for the reason that it consisted wholly or in part of a filthy, decomposed, and putrid animal substance and that the vessels holding the product had been opened since first packed and had been reprocessed, and that the contents did not consist of fresh, sound, and wholesome salmon. It was alleged that the 30 cases and the 34 cases were misbranded in that the labels thereon were false and misleading.

On May 19, 1913, the said Holland-Council Co., claimant, having consented to a decree of condemnation, but praying that the goods be released to them under bond, judgment of condemnation and forfeiture was entered and it was ordered that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2832. Adulteration and misbranding of strawberry fruit juice. U. S. v. Bruce & West Manufacturing Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 3519. I. S. No. 2416-d.)

On July 13, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Bruce & West Manufacturing Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 23, 1911, from the State of Ohio into the State of New York, of a quantity of strawberry fruit juice which was adulterated and misbranded. The product was labeled: (Stenciled on barrel) "Strawberry * * *" (On shipping tag) "From the Bruce & West Mfg. Co., J. M. Shull, Mgr., Bakers & Confectioners Supplies, Cleveland, O. For A. E. Morse I. C. Co. Niagara Falls, N. Y."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed sodium benzoate, 0.268 per cent. Adulteration of the product was alleged in the information for the reason that a substance, to wit, benzoate of soda, had been substituted in part for the article named and described upon the label and brand. Misbranding was alleged for the reason that the labels and brands on the product were false and misleading in that they would deceive and mislead the purchaser into the belief that the product consisted of a substance prepared wholly from strawberry fruit, whereas, in truth and in fact, it contained a substance, to wit, benzoate of soda, which is not a normal constituent of food and the presence of which was not declared upon the labels and brands.

On May 23, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2833. Adulteration and misbranding of acetanilid compound tablets; adulteration and misbranding of acetanilid tablets; adulteration and misbranding of nitroglycerin tablets; adulteration and misbranding of extract nux vomica tablets; adulteration and misbranding of strychnine sulphate tablets; misbranding of wine of coca. U. S. v. Toledo Pharmacal Co. Plea of nolo contendere. Fine, $150 and costs. (F. & D. No. 3535. I. S. Nos. 9862-d, 9861-d, 9870-d, 9871-d, 9875-d, 9876-d.)

On May 3, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in eleven counts against the Toledo Pharmacal Co., a corporation, Toledo, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about July 27, 1911, from the State of Ohio into the State of Michigan—

(1) Of a quantity of acetanilid compound tablets which were adulterated and misbranded. The product was labeled: (On bottle) "Guarantee No. 2867 Guaranteed under the food and drugs act, June 30, 1906. 1000 Compressed Tablets No. 9, Acetanilid Comp. No. 2. Acetanilid 3½ grs. Sodium Bicarb. 1 gr. Caffeine Citrated ½ gr. 16922 Manufactured by Toledo Pharmacal Co. 224-28 Jackson St. Toledo, O." (Blown in bottle) "Toledo Pharmacal Co., Toledo, Ohio."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: 100 tablets weighed 31.2518 grams; acetanilid per tablet, 2.75 grains; caffein citrate per tablet, 0.482 grain; sodium bicarbonate, not determined. Adulteration of the product was alleged in the information for the reason that it bore upon the label thereof a professed standard, to wit, acetanilid 3½ grains strength per tablet, whereas, in truth and in fact, said product was of a lower standard in strength, to wit, 2.75 grains per tablet. Misbranding was alleged for the reason that the statement on the label was false and misleading in that it would convey the impression that each tablet contained 3½ grains acetanilid, whereas, in truth and in fact, each of the tablets contained but 2.75 grains of acetanilid.

(2) Of a quantity of acetanilid tablets which were adulterated and misbranded. This product was labeled: "500 Compressed Tablets No. 7, Acetanilid 5 grains 14862 Manufactured by Toledo Pharmacal Co., 129–131 Ontario St., Toledo, O. Guarantee No. 2867 Guaranteed under the Food and Drugs Act June 30, 1906." (Blown in bottle) "Toledo Pharmacal Company Toledo, Ohio."

Analysis of a sample of the product by said Bureau of Chemistry showed the following result: Acetanilid per tablet, 4.02 grains. Adulteration of the product was alleged in the information for the reason that it bore upon its label a professed standard, to wit, acetanilid 5 grains strength per tablet, whereas, in truth and in fact, it was of a lower standard of strength, to wit, 4.02 grains per tablet. Misbranding was alleged for the reason that the statement on the label was false and misleading in that it would convey the impression that each tablet contained 5 grains of acetanilid, whereas, in truth and in fact, each tablet contained but 4.02 grains of acetanilid.

(3) Of a quantity of nitroglycerin tablets which were adulterated and misbranded. This product was labeled: (On bottle) "Guarantee No. 2867 Guaranteed under the Food and Drugs Act June 30, 1906. 1000 Compressed Tablets No. 456 Nitroglycerine 1–50 gr. 14603 Manufactured by Toledo Pharmacal Co., Toledo, O. 129–131 Ontario St." (Blown in bottle) "Toledo Pharmacal Company, Toledo, Ohio."

Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Nitroglycerin per tablet, 0.001 grain. Adulteration of the product was alleged in the information for the reason that it bore upon its label a professed standard, to wit, nitroglycerin 1/50 grain strength per tablet, whereas, in truth and in fact, it was of a lower standard in strength, to wit, 0.001 grain per tablet. Misbranding was alleged for the reason that the statement on the label was false and misleading in that it would convey the impression that each tablet contained 1/50 grain of nitroglycerin, whereas, in truth and in fact, each of the said tablets contained but 0.001 grain of nitroglycerin.

(4) Of a quantity of extract of nux vomica tablets which were adulterated and misbranded. This product was labeled: (On bottle) "1000 Compressed Tablets No. 459 Extract Nux Vomica 1–4 grain 13498 Manufactured by Toledo Pharmacal Co. 129–131 Ontario St., Toledo, O. Guarantee No. 2867. Guaranteed under the Food and Drugs Act June 30, 1906."

Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Nux vomica extract, one-seventh grain per tablet. Adulteration of the product was alleged in the information for the reason that it bore upon its label a professed standard, to wit, extract nux vomica, one-fourth grain strength per tablet, whereas, in truth and in fact, the product was of a lower standard in strength, to wit, one-seventh grain. Misbranding was alleged for the reason that the statement on the label was false and misleading in that it would convey the impression that each tablet contained one-fourth grain of nux vomica, whereas, in truth and in fact, each of the tablets contained but one-seventh grain of nux vomica.

(5) Of a quantity of strychnin sulphate tablets which were adulterated and misbranded. This product was labeled: (On bottle) "1000 Compressed Tablets No. 582 Strychnine Sulphate 1–40 grain 15464. Manufactured by Toledo Pharmacal Co. 129–131 Ontario St., Toledo, O."

Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Strychnin sulphate per tablet, one-fifty-third grain. Adulteration of the product was alleged in the information for the reason that it bore upon its label a professed standard, to wit, strychnin sulphate, one-fortieth grain per tablet, whereas in truth and in fact, it was of a lower standard in strength, to wit, less than one-fiftieth grain. Misbranding was alleged for the reason that the statement on the label was false and misleading in that it would convey the impression that each tablet con-

tained one-fortieth grain of strychnin sulphate, whereas, in truth and in fact, each of the tablets contained less than one-fiftieth grain of strychnin sulphate.

(6) Of a quantity of wine of coca, which was misbranded. This product was labeled: (On bottle)—"Wine of Coco U. S. P. The Toledo Pharmacal Company [Picture of building] Nos. 224–6–8 Jackson St., Toledo, Ohio."

Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Alcohol, 18.24 per cent by volume; ether-soluble alkaloids (cocain and cocain derivatives), one-fortieth grain per fluid ounce. Misbranding of the product was alleged in the information for the reason that it contained alcohol, cocaine, and cocaine derivatives, the presence of which and quantity and proportions of which were not disclosed by a statement on the label, set forth above.

On November 11, 1912, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $150 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2834. Alleged misbranding of bitters. U. S. v. Basilea Calandra Co. Demurrer to information sustained. (F. & D. No. 3593. I. S. No. 12937-c.)

On February 4, 1913, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Basilea Calandra Co., a corporation, New York, N. Y., alleging shipment by said company, from the State of New York into the State of Louisiana, of a quantity of bitters which was alleged to have been misbranded. The product was labeled partly in English and partly in Italian: "Fernet Bascal—compounded—contains 33% alcohol by volume. Guaranteed under the Pure Food and Drugs Act June 30, 1906.—Serial No. 4234.—Made in U. S. A." (translation of the part of the label in Italian) "A Vermifuge and Febrifuge Liquor. Is the only fernet which, on account of being prepared in a wholly special manner, besides having all the qualities indisputably recognized in such a kind of liquor, has the valuable property of preventing and causing to cease, disorders caused by sea voyages. No mistake can be made, then, in considering it as indispensable for a good voyage. May be taken at any time in the quantity of a small wine-glassful or mixed with any liquor or drink. At sea it should be taken as soon as the first symptoms of vomiting manifest themselves. To avoid adulterations every label will bear the signature 'Fernet Bascal' and the cork will be fastened at the top of the bottle with another label which will bear the same signature".

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Alcohol (per cent by volume), 28.3; non-volatile matter (grams per 100 cc), 1.75; ash (grams per 100 cc), 0.09; quinin present. Misbranding of the product was alleged in the information for the reason that the label thereon would indicate that it was a foreign product, to wit, a product of Italy, whereas, in truth and in fact, it was not a foreign product but was a product made in the United States.

On February 24, 1913, the defendant company filed its demurrer to the information and on March 17, 1913, the court sustained the demurrer on oral argument, without rendering a formal opinion.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2835. Misbranding of clams. U. S. v. 50 Cases of Clams. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 3597. S. No. 1320.)

On or about March 23, 1912, the United States Attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 50 boxes, each containing 4 dozen one-pound cans of an article purporting and representing to be little-neck clams, remaining unsold in the original unbroken packages

and in possession of S. C. Wooster, Albany, N. Y., alleging that the product had been shipped by Jasper Wyman & Son, Millbridge, Me., and transported in interstate commerce from the State of Maine into the State of New York, and charging misbranding in violation of the Food and Drugs Act. The product was labeled (on cases and cans): "Hunter Brand Little Neck Clams, Packed by Jasper Wyman & Son at Millbridge, Washington Co., Me., U. S. A., Extra Quality. * * *"

Misbranding of the product was alleged in the libel for the reason that it was labeled as set forth above, when, as a matter of fact and in truth, the said cases or boxes and cans hereinbefore referred to, did not contain little-neck clams, so-called, but the clams therein contained were of an inferior character and kind and were not of the kind commonly known and called little-neck clams, all of which was calculated to deceive and mislead the purchaser thereof, and further, the said label and the words written or printed thereon were false and misleading and constituted a misbranding within the meaning of the act aforesaid.

On April 26, 1912, the said Jasper Wyman & Son, claimant, having appeared by attorney and filed no answer, and having conceded the truth of the allegations in the libel, and the libelant and respondent having agreed as to the facts in the case, and same having been submitted to the court, a jury having been waived and witnesses having been sworn and given testimony in behalf of the libelant, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be restored to said claimant upon payment of all the costs in the proceeding, taxed at $15.45, and the execution of bond in the sum of $300, in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2836. Adulteration of dried eggs. U. S. v. 10 Boxes of Dried Eggs. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 3600. S. No. 1322.)

On March 23, 1912, the United States Attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 10 boxes of dried eggs, remaining unsold in the original unbroken packages and in the possession of John D. Parsons, Albany, N. Y., alleging that the product had been shipped from the State of Illinois into the State of New York, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the product was alleged in the libel for the reason that it was declared by the invoices thereof to be dried eggs, when, in truth and in fact, the said article consisted in whole or in part of filthy, decomposed, and putrid animal substances and thereby was unfit for food.

On May 26, 1912, no claimant having appeared for the property, although C. H. Weaver & Co., Chicago, Ill., the owners of the dried eggs, were duly warned to appear, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be destroyed by the United States marshal, and that the costs of the proceeding, taxed at $30.90, should be paid by the said C. H. Weaver & Co.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2837. Misbranding of bitters. U. S. v. S. Hirsch Distilling Co. (Minuet Cordial Co.). Plea of guilty. Fine, $100 and costs. (F. & D. No. 3608. I. S. No. 17343-c.)

On July 19, 1912, the United States Attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the S. Hirsch Distilling Co., a corporation, Kansas City, Mo., doing business under the trade name of Minuet Cordial

Co., alleging shipment by said company, in violation of the Food and Drugs Act, on or about March 4, 1911, from the State of Missouri into the State of Minnesota, of a quantity of so-called Fernet-Alpino Bitters which was misbranded. The product was labeled: "Fernet-Alpino Bitters de Louis Alpino Fernet-Alpino is made according to the old Milan formula and users of this bitters will find it far superior to the other fernets on the American market. The goods is bottled under my own supervision and I heartily recommend it to my friends and customers. Louis Alpino Alcohol by volume 45% Serial Number 5897."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Alcohol (per cent by volume), 32; sugar, caramel, water, and undetermined matter. Misbranding of the product was alleged in the information for the reason that it was stated on the labels on the bottles that there was contained therein 45 per cent of alcohol by volume, whereas, in truth and in fact, there was contained in the bottles 32 per cent of alcohol by volume, and said bottles and each of them so marked, labeled, and branded as aforesaid were further misbranded in that it was stated upon the labels and each of them that the goods were bottled under the supervision of Louis Alpino, which was false and misleading because the product was not bottled under the supervision of said Louis Alpino.

On November 14, 1912, the defendant company entered a plea of guilty to the information, and on June 27, 1913, the court imposed a fine of $100 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2838. Adulteration of dried eggs. U. S. v. 15 Boxes of Dried Eggs. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 3628. S. No. 1335.)

On or about March 30, 1912, the United States Attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 15 boxes of dried eggs, remaining unsold in the original unbroken packages and in possession of John D. Parsons, Albany, N. Y., alleging that the product had been shipped by C. H. Weaver & Co., Chicago, Ill., and transported from the State of Illinois into the State of New York, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the product was alleged in the libel for the reason that it consisted in whole or in part of filthy, decomposed, and putrid animal substances, and thereby was unfit for food.

On May 26, 1912, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal, and the costs of the proceeding, taxed at $32.65, should be assessed against the said C. H. Weaver & Co.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2839. Adulteration and misbranding of nitroglycerin tablets. U. S. v. G. D. Searle & Co. Plea of guilty. Fine, $100 and costs. (F. & D. No. 3631. I. S. No. 1771-d.)

On August 4, 1913, the United States Attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against G. D. Searle & Co., a corporation, Chicago, Ill., alleging shipment by said company, on July 20, 1911, in violation of the Food and Drugs Act, from the State of Illinois into the State of Michigan, of a quantity of nitroglycerin tablets which were adulterated and misbranded. The product was labeled: "2000 tablets nitroglycerin 1/200 gr. * * * Manufactured by G. D. Searle and Company, Pharmaceutical Chemists, Chicago. 382-3. Guaranteed under the Food and Drugs Act, June 30, 1906. Serial No. 2699, S. C. Brown."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the presence of 0.001 grain of nitroglycerin per tablet. Adulteration of the product was alleged in the information for the reason that the label borne upon the bottle containing it represented to the purchaser that each of the tablets contained one two-hundredth of a grain of nitroglycerin, whereas, in truth and in fact, the strength of each of the nitroglycerin tablets fell below the professed standard under which the drug had been sold and shipped, in that each of the nitroglycerin tablets contained not to exceed one one-thousandth of a grain of nitroglycerin. Misbranding was alleged for the reason that the statement on the label appearing on the bottle containing the product was false and misleading in that said statement represented to the purchaser that each of the nitroglycerin tablets contained one two-hundredth of a grain of nitroglycerin, whereas, in truth and in fact, the strength of each of the nitroglycerin tablets fell below the professed standard under which it had been sold and shipped, in that each of the nitroglycerin tablets contained not to exceed one one-thousandth of a grain of nitroglycerin.

On September 8, 1913, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $100 with costs of $15.40.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 3, 1914.*

2840. Adulteration and misbranding of so-called apple cider. U. S. v. National Fruit Products Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 3841. I. S. No. 1395-d.)

On August 13, 1913, the United States Attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district, an information against the National Fruit Products Co., a corporation, Memphis, Tenn., alleging shipment by said company, in violation of the Food and Drugs Act, on July 21, 1911, from the State of Tennessee into the State of Texas, of a quantity of so-called apple cider which was adulterated and misbranded. The product was labeled: "Apple Cider—Guaranteed. The contents of this package, as originally filled, are guaranteed to be made from apples fortified with sugar. (No distilled spirits, wine or fermented juice of grapes or other small fruits or alcoholic liquors being added.) Flavored with artificial flavor; colored with vegetable color, and contains 1/10 of 1% benzoate of soda. Sweetened with artificial sweetening matter and conforms to the provisions of the Food and Drugs Act, as passed by Congress, June 30, 1906. We also guarantee the contents of this package, as originally filled, to be exempt from Internal Revenue Tax. National Fruit Products Co., Memphis, Tenn."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results, which are expressed as grams per 100 cc except where otherwise indicated:

Solids	15.63
Ash	.50
Alkalinity of soluble ash (cc N/10 acid per 100 cc)	18.4
Reducing sugar as dextrose	10.07
Nonsugar solids	5.56
Sugar in solids (per cent)	64.42
Lead precipitate	Very heavy.
Sodium benzoate	.07
Total acid	.57
Volatile acid	.29
Fixed acid	.32
Pentosans	.19
Total phosphoric acid (mg per 100 cc)	100.5

Alcohol	6.61
Glycerin	.46
Saccharin	Very pronounced.

Adulteration of the product was alleged in the information for the reason that a substance, to wit, a compound cider prepared from apple juice, starch sugar, saccharin, and benzoate of soda, had been substituted wholly or in part for the article which purported to be apple cider, and for the further reason that the said substance just mentioned had been so mixed with and added to the article of food as to reduce, lower, and injuriously affect its quality. It was alleged in the information that the product was misbranded in that—

(1) The following statement borne on the label: "Apple Cider," was false and misleading because it conveyed the impression that the product was genuine apple cider, whereas, in fact, it was a compound cider, prepared from apple juice, starch sugar, saccharin, and benzoate of soda.

(2) In that said product was labeled and branded: "Apple Cider," thereby purporting that it was apple cider, whereas, in truth and in fact, it was a compound cider prepared from apple juice, starch sugar, and benzoate of soda.

(3) In that the label contained the following statement: "Fortified with sugar," which said statement was false and misleading, because it conveyed the impression that the product was fortified with cane sugar, whereas, in fact, it was fortified with starch sugar.

(4) In that it was labeled and branded so as to deceive the purchaser, being labeled and branded: "Fortified with sugar," thereby purporting that the product was fortified with cane sugar, whereas, in truth and in fact, it was fortified with starch sugar.

(5) In that the label contained the statement: "Conforms to the provisions of the Food and Drugs Act, as passed by Congress June 30, 1906," which was false and misleading because the product did not conform to the provisions of said Food and Drugs Act as passed by Congress June 30, 1906.

(6) In that said label on the article bore the statement: "Conforms to the provisions of the Food and Drugs Act as passed by Congress June 30, 1906," which was calculated to deceive and mislead the purchaser, whereas it did not conform to the provisions of the Food and Drugs Act as passed by Congress June 30, 1906.

(7) In that it was an alcoholic beverage, containing approximately 6.61 per cent alcohol, and the label did not state the presence of and quantity of alcohol.

On November 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25, with costs of $15.85.

When the case was reported for prosecution, no charge of misbranding was made on account of the presence of undeclared alcohol in the product.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 4, 1914.*

2841. Adulteration and misbranding of oil of cassia. U. S. v. Lehn & Fink. Tried to a jury. Verdict of guilty. Fine, $150. Second offense. (F. & D. No. 3880. I. S. No. 12240-d.)

On August 6, 1912, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Lehn & Fink, a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on May 12, 1911, from the State of New York into the State of Texas, of a quantity of oil of cassia which was adulterated and misbranded. The product was labeled: "1 lb. O. L. Cinnamoni Oil Cassia U. S. P. Serial No. 2. Lehn & Fink, distillers and importers of essential oils New York."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Specific gravity at 25° C., 1.0592; assay for cinnamic aldehyde, 80 per cent; rotation in 100 mm tube, +2.27°; lead and copper absent; soluble in 2 volumes of 70 per cent alcohol; lead acetate test for resins, positive; copper acetate test for rosin, positive; rosin present; non-volatile residue, 13.3 per cent.

Adulteration of the product was alleged in the information for the reason that it was sold under and by a name recognized in the United States Pharmacopœia or National Formulary, to wit, oil of cassia, and differed from the standard of strength, quality, and purity as determined by the tests laid down in said Pharmacopœia official at the time of investigation with respect to the specific gravity and rotation of said article, and the absence therefrom of resins, and the standard of strength, quality, and purity of said article was not stated upon the container thereof or in the label thereof. Misbranding was alleged for the reason that the package and label on the article bore a statement, to wit, "Oil Cassia U. S. P.," regarding it and the ingredients and substances contained therein which was false and misleading, that is to say said statement conveyed the impression that the product was of the standard laid down in said Pharmacopœia for the article or drug which the product purported to be, to wit, oil of cassia, whereas it did not comply with the standard with respect to its specific gravity, rotation, and the absence of resins.

On November 6, 1912, the case having come on for trial before the court and a jury, after the submission of evidence and argument by counsel, the following charge was delivered to the jury by the court:

Hough, *Judge*. Gentlemen, we have listened for a couple of hours to some long, hard words; but, like every criminal case, we get down to a question of fact, not difficult to state, and (I think) not difficult to understand.

The Pure Food and Drug Act has been much talked of in the last half dozen years. The object, as you have been told, is to enable the consumer to know what it is in the way of food or drugs that he is putting in his stomach; and, to punish anybody who, whether by willful design or carelessness or inadvertence—it doesn't make a particle of difference which—puts forth for human consumption as food or drug that which is not what it pretends to be. The statute has other objects, but this is probably the leading purpose.

I do not quite agree with Mr. Newman, who told you that the point in this case is the difference between rosin and resin. There is a plain difference. We are told, if we needed to be told, that rosin is that well-known article of commerce that comes out of a species of pine tree, and is in a state of nature, mixed with what we call turpentine. It is used for a large number of well known and homely purposes, as for instance soldering tin cans or helping to solder them. Rosin is a resin; that is, it is a resinous substance. It may be that some members of the jury were brought up in the country and can remember what spruce gum was like. Well, that is also a resinous substance, and there are many other resinous substances in nature.

This oil of cassia or cinnamon is made out of a plant that does not grow in this country. It is mostly manufactured in China by the process of distillation, and I take it that every man here has some general idea how whiskey or other distilled spirits are made. In its simplest form the thing which is to be distilled is boiled and the steam of the boiling is condensed into a fluid which is in its ultimate form of the same kind, and yet chemically differs from that from which it originated.

It appears by the uncontradicted evidence that since the substance which results after distillation, oil of cassia, is very heavy, its heating has to be supplanted or aided by a direct blast of steam. Any one can see that that may result in the carrying over of particles into the distillation that by a milder process, so to speak, would not be so carried over.

Mr. Wyckoff says that there is in this plant, which produces, among other things, the oil of cinnamon or cassia, a resinous substance, and that in the process of distillation such resinous substances by the force of the heat and steam are in part carried over into the oil; but, they are a natural product of the plant and must be expected to be found in the finished product.

The chemists for the Government (as I understand them), deny that there is any such resinous property in the cassia cinnamon plant. I advise you that if there is any natural resinous substance in the cassia cinnamon plant, then there is nothing in

the law which makes it unlawful for that resinous substance to be found in the finished product that we call oil of cinnamon or cassia. But, says the Government, we got oil of cinnamon or cassia, that was sent by Lehn & Fink to Texas, we had that analyzed and the gentlemen who analyzed it, have been before you. They say they know rosin when they see it, and they found that this particular oil of cassia contained 5 or 6 per cent of *rosin*. Then it seems, by way of trying to straighten the matter out, that a portion of this sample of cinnamon oil was sent to Lehn & Fink, and Wyckoff analyzed it,—and he says that he did not find any rosin. He did find however all the other things that the other gentlemen found, and (except as to rosin) there is no substantial difference between their chemical investigations. But, when he applied the test that ought to have showed rosin if there was any rosin there, he got no precipitate,—found no solid residuum of rosin; but he did find about five and one-half per cent of a *resinous substance*, which in his opinion was the natural resin of the cassia cinnamon plant.

There is the whole story. Mr. Wyckoff says he found between five and six per cent of resinous substance and says that is natural to the article;—the Government inspectors found they say about the same percentage of rosin.

When we turn to the standard books in evidence before you, the Formulary says that it is common to adulterate oil of cassia with rosin and petroleum; and, when you turn to the Pharmacopœia various tests are given for the purpose of finding out whether there is rosin—not resinous substances, but rosin and petroleum in oil of cassia. Nobody says there is any petroleum in this specimen; but, the Government by its witnesses says there was rosin in it. The defendant by its witnesses says there wasn't any rosin in it at all, and that is the question.

Now, if you are thoroughly satisfied that there was rosin in this oil of cassia, then the defendant is guilty; if you are not satisfied, thoroughly satisfied that there was rosin in this oil of cassia, then it is not guilty.

By way of argument the defendant advances to you this proposition. It is worthy of consideration. The Pharmacopœia says that the active principle the cinnamic aldehyde that is in oil of cassia, need only amount to 75 per cent, and this specimen had more of the active principle in it that the Pharmacopœia required. That is admitted. Therefore the interrogatory is made, why should anybody adulterate something better than the standard?

Mr. Smith for the prosecution is entirely right in saying that there is not the slightest effort here to show that Lehn & Fink ever put anything in this oil. It is admitted they got this article from China and sold it to Texas as it came from China, so that whatever there was in the article when it got to Texas (so far as we know here), must have been put in in China. But when a man gets an article from the ends of the earth and then puts it forth with a label on it, which in effect says, "This corresponds to the law of the United States," it is his business to see that it does correspond, so it doesn't make any difference where it came from, or who put in the rosin if there was any. The question is as I put it to you now: Was there 5 or 6 per cent of rosin in this oil of cinnamon, or was there not? If there was, then you should find a verdict for the Government, if there was not, then you are to find a verdict for the defendant.

Thereupon the jury retired and after due deliberation returned into court with a verdict of "guilty," and the court imposed a fine of $150, this being the second offense of the defendant corporation.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2842. Adulteration and misbranding of tea garden drips. U. S. v. Pacific Coast Syrup Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 3882. I. S. No. 3552-d.)

On April 4, 1913, the United States Attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district information against the Pacific Coast Syrup Co., a corporation, San Francisco, Cal., and doing business at Oxnard. Cal., alleging the shipment by said company, in violation of the Food and Drugs Act, on or about May 20, 1911, from the State of California into the then Territory, now State, of Arizona, of a quantity of tea garden drips which was adulterated and misbranded. The product was labeled: "Tea Garden Drips. Sugar Sugar-cane and Corn Syrup Pacific Coast Syrup Co., Seattle, San Francisco, Portland. Guaranteed by the Pacific Coast Syrup Co. under the Food and Drugs Act June 30, 1906 Serial No. 8297. Trade Mark Registered U. S. Patent Office."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids by drying (per cent)	72.28
Nonsugar solids (per cent)	17.08
Sucrose, Clerget (per cent)	40.20
Sucrose, by copper (per cent)	41.04
Reducing sugars as invert before inversion (per cent)	15.00
Commercial glucose (factor 163) (per cent)	33.10
Polarization, direct at 20° C. (°V.)	+95.8
Polarization, invert, at 20° C. (°V.)	+42.4
Polarization, invert, at 87° C. (°V.)	+54.0
Ash (per cent)	.77
Solids, by Geerlig (per cent)	73.36

Adulteration of the product was alleged in the information for the reason that it was labeled "Tea Garden Drips," the term drips indicating that it was a high quality of syrup and molasses obtained from the drainings and bleedings from sugar, and an analysis of said product showed that a substance, to wit, commercial glucose, had been substituted in whole or in part for such drips. Misbranding was alleged for the reason that the statement "drips" borne on the label was false and misleading because it conveyed the impression that the product was a high quality of syrup and molasses obtained from the drainings and bleedings from sugar, whereas, in fact, it was a mixture of syrup and commercial glucose, the statement "sugar, sugar cane and corn syrup" also appearing on the label being in such small type as to fail to correct the false impression conveyed by the word "drips."

On May 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 4, 1914.*

2843. Adulteration and misbranding of apple cider and apple juice. U. S. v. National Fruit Products Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 3904. I. S. Nos. 17557-c, 17558-c.)

On August 13, 1913, the United States Attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the National Fruit Products Co., a corporation, Memphis, Tenn., alleging shipment by said company, in violation of the Food and Drugs Act, on or about June 5, 1911, from the State of Tennessee into the State of Georgia, of a quantity of so-called apple cider and a quantity of so-called apple juice, which products were adulterated and misbranded. The product purporting to be apple cider was labeled: "Apple Cider Guaranteed. The contents of this package as originally filled, are guaranteed to be made from apple juice, fortified with sugar. (No distilled spirits, wine, fermented juice of grapes or other small fruits or alcoholic liquors being added) contains 1/10 of 1% Benzoate of Soda and artificial sweetening matter and conforms to the provisions of the Food and Drugs Act as passed by Congress June 30, 1906. We also guarantee the contents of this package as originally filled to be exempt from Internal Revenue Tax. National Fruit Products Co., Memphis, Tenn." The apple juice was labeled: "The contents of this package is made from apple juice fortified with sugar and guaranteed to be exempt from Internal Revenue Tax and conforms strictly with the provisions of the Food and Drugs Act, as passed by Congress June 30, 1906; Contains 1/10 of 1% Sodium Benzoate. National Fruit Products Co., Memphis, Tenn."

Analyses of samples of these products by the Bureau of Chemistry of this Department showed the following results expressed as grams per 100 cc, except where otherwise indicated:

	Apple cider.	Apple juice.
Specific gravity (20°C./4°C.)	1.0267	1.0500
Alcohol (per cent by volume)	7.64	8.55
Solids, by refractometer	10.29	16.87
Nonsugar solids	4.15	6.80
Sucrose, by reduction	0.05	0.21
Reducing sugar, direct, as invert sugar	6.09	9.86
Polarizations, undiluted:		
Direct 20° C. (°V.)	−26.6	−80.2
Invert 20° C. (°V.)	−24.8	−78.8
Invert 87° C. (°V.)	−25.4	−77.0
Ash	0.37	0.20
Alkalinity of soluble ash (cc N/10 acid per 100 cc)	19.3	8.7
Soluble phosphoric acid (mg per 100 cc)	68.6	6.6
Insoluble phosphoric acid (mg per 100 cc)	20.1	13.1
Acid, as acetic	0.62	0.43
Volatile acid, as acetic	0.37	0.21
Fixed acid, as malic	0.28	0.24
Color (degrees, brewer's scale, 0.5 inch)	17.0	3.5
Commercial glucose (factor 163)	4.1	12.3
Eythrodextrin test	Positive but not so distinct as in I. S. No. 17558–c.	Positive.
Saccharin and coal-tar color	None detected.	None detected.
Benzoic acid as sodium benzoate	0.11	0.09
Added vegetable color	Caramel probably is present.	None detected.

Adulteration of the first-named product was alleged in the information for the reason that it was not pure apple cider, but an imitation cider made in part by the fermentation of impure starch sugar, containing a high amount of dextrin and being a highly alcoholic compound. Adulteration was alleged for the further reason that the product contained added phosphoric acid, whereas the article purported to be and was so branded and labeled as to imply it was a product made from pure apple cider. Adulteration was alleged for the further reason that there had been added, wholly or in part, and combined with said article, glucose or starch sugar, dextrin, and a fermentation of starch sugar and phosphoric acid, so as to reduce, lower, and injuriously affect the quality of the article. It was alleged in the information that the product was misbranded in that—

(1) The statement, to wit, "Apple Cider, made from apple juice, fortified with sugar," borne on the labels thereof was false and misleading, because it conveyed the impression and was calculated and intended to convey the impression that it was an unfermented apple juice, sweetened with sucrose or cane sugar, whereas, in fact, the product was a mixture of fermented apple juice and starch sugar.

(2) In that it was labeled and branded so as to deceive the purchaser, being labeled "Apple Cider made from apple juice, fortified with sugar," thereby purporting it was an unfermented apple juice sweetened with sucrose or cane sugar, whereas, in truth, it was a mixture of apple juice and starch sugar.

(3) The following statement borne on the label, "Fortified with sugar," was false and misleading, because it conveyed and was intended and calculated to convey the impression that sucrose or cane sugar had been added, whereas, in fact, starch sugar had been added to the said product.

(4) In that it contained the following statement: "No distilled spirits, wine, fermented juice of grapes or other small fruits, or alcoholic liquors being added," whereas, in fact, said article contained approximately 7.64 per cent, by volume, of alcohol.

(5) In that the said label did not disclose the presence or quantity of alcohol contained in said product, as required by said act.

Adulteration of the second-named product was alleged in the information for the reason that there had been added and mixed with the said apple juice a mixture of fermented cider and starch sugar, which had been substituted in part for the product, so as to reduce, lower, and injuriously affect the quality thereof. It was alleged in the information that this product was misbranded—

(1) In that it was labeled and branded so as to deceive and mislead the purchaser, being labeled, "Made from apple juice, fortified with sugar," thereby purporting that it was an apple juice to which sucrose or cane sugar had been added, whereas, in fact, it was a mixture of fermented cider, fermented together to produce a highly alcoholic compound.

(2) In that the following statement, "Fortified with sugar," borne on the label was false and misleading, because it conveyed and was intended to convey the impression that sucrose or cane sugar had been added to the product, when, as a matter of fact, starch sugar had been added to it and not cane sugar.

(3) In that it was labeled and branded so as to deceive and mislead the purchaser, being labeled, "Fortified with sugar," thereby purporting that sucrose or cane sugar had been added to the product, when, as a matter of fact, cane sugar had not been added, but starch sugar had been added.

(4) In that said label did not disclose the presence of alcohol in said product, when, as a matter of fact, it contained alcohol to the extent of 8.55 per cent by volume.

(5) In that said label bore the statement, "Conforms strictly with the provisions of the Food and Drugs Act as passed by Congress June 30, 1906," when, as a matter of fact, the product did not conform with the provisions of said act, in that it was both adulterated and misbranded.

On November 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25, with costs of $15.95.

When this case was reported for prosecution, no charge of misbranding was made, because the labels on the products failed to bear a statement showing the quantity or proportion of alcohol present therein.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 4, 1914.*

2844. Alleged adulteration and misbranding of Cordial Non-Alcoholic Rock and Rey. U. S. v. Henry D. Goodman (Fulton Extract and Cordial Works). Demurrer to information sustained. (F. & D. No. 3908. I. S. No. 13276-d.)

On February 5, 1913, the United States Attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Henry D. Goodman, doing business and trading under the name and style of Fulton Extract & Cordial Works, Brooklyn, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on December 7, 1911, from the State of New York into the State of New Jersey, of a quantity of so-called Cordial Non-Alcoholic Rock and Rey, which was alleged to have been adulterated and misbranded. The product was labeled: (On barrel head) "Cordial Non-Alcoholic Rock & Rey (W8611 12-8-11)" (Tag): "Mr. A. Kandel 557-559 Market St., Newark, N. J. From Fulton Extract & Cordial Works 817 Myrtle Ave., Brooklyn, N. Y."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed that it was a preparation of water, sugar, glucose, and artificial coloring matters, sold in imitation of rock and rye cordial. Adulteration of the product was alleged in the information for the reason that it contained a substance and substances which

had been substituted in part for the article, to wit, a syrup containing sugar, commercial glucose, and artificial coloring matter. Misbranding was alleged for the reason that the statement "Cordial Non-Alcoholic Rock & Rey," borne on the label, was false and misleading in that said label purported that the product was composed of rock and rye, which is a mixture of rock candy and rye whisky, whereas, in truth and in fact, it was not a mixture of rock candy and rye whisky, but was a syrup containing sugar, commercial glucose, and artificial coloring matter, and said label did not set forth all the ingredients and substances in said product and failed to set forth that the product did contain another substance and substances, to wit, sugar, commercial glucose, and artificial coloring matter. Misbranding was alleged for the further reason that the statement "Cordial Non-Alcoholic Rock & Rey," borne on the label, was false and misleading in that it represented that the product was a cordial, whereas, in truth and in fact, it was not a cordial, but was a syrup containing sugar, commercial glucose, and artificial coloring matter. Misbranding was alleged for the further reason that the statement borne on the label thereof, to wit, "Cordial Non-Alcoholic Rock & Rey," deceived and misled the purchaser into the belief that the product was cordial, containing rock and rye, a mixture of rock candy and rye whisky, whereas, in truth and in fact, it was not a cordial containing rock and rye or a mixture of rock candy and rye whisky, but consisted of a syrup containing sugar, commercial glucose, and artificial coloring matter.

On February 20, 1913, the defendant filed his demurrer to the information and on May 9, 1913, the court sustained the demurrer, as will more fully appear from the following memorandum decision by the court:

Veeder, *Judge*. This is a demurrer to an information under the Food and Drugs Act. The article of food in question was labeled by the defendant "Cordial Non-Alcoholic Rock & Rey." It is alleged that it was in fact a syrup containing sugar, commercial glucose and artificial coloring matter. The supporting affidavit shows that it contained, in addition, prune juice.

The information charges the defendant, in one count, with adulteration, and in three other counts with misbranding.

With respect to adulteration the allegation is that the defendant's food product contained substances—that is, sugar, commercial glucose, and artificial coloring matter—"which had been substituted in part for the said article." But the ingredients of the "said article" which is thus alleged to have been debased by an admixture of the substances mentioned are not alleged, and they are certainly not within common knowledge. Adulteration is a relative term, and unless the relation is disclosed no offense is set up.

The second, third and fourth counts charge misbranding: that the label was false and misleading in representing the article to be (a) a compound of rock candy and rye whiskey, (b) a cordial, (c) a cordial containing rock candy and rye whiskey; whereas it was syrup containing sugar, commercial glucose and artificial coloring matter.

The designation "Cordial Non-Alcoholic Rock & Rey" is an arbitrary and fanciful one, calculated at once to put a purchaser upon inquiry as to the ingredients. But the word non-alcoholic clearly indicates that the product does not contain whiskey and that it is not a cordial, the essential ingredient of which is alcohol. Since the act does not require that the ingredients of such a product shall be stated, I am of the opinion that the information fails to set up a case of misbranding.

The demurrer is sustained.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 4, 1914.*

2845. Adulteration and misbranding of lemon and vanillin flavors. U. S. v. National Chemical Co. Plea of guilty. Fine, $20 and costs. (F. & D. No. 3909. I. S. Nos. 14689-d, 14690-d.)

On October 15, 1912, the United States Attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the National Chemical Co., a corporation, Burlington, Iowa, alleging shipment by said company, in violation of the Food and Drugs Act, on November 21, 1911, from the State of Iowa into the State of Illinois, of quantities of lemon flavor and vanillin flavor which were adulterated

and misbranded. The lemon flavor was labeled: (On bottle) "Dr. Miller's Terpeneless flavoring of Lemon Artificial Colored. Prepared only by The National Chemical Co. Burlington, Iowa."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Specific gravity	0.9602
Alcohol (per cent by volume)	43.5
Methyl alcohol	Absent
Glycerol	Present
Solids (grams per 100 cc)	6.75
Lemon oil by precipitation	Absent
Total aldehydes (per cent by weight)	0.12
Citral (per cent by weight)	0.10
Color	Naphthol Yellow S

Adulteration of this product was alleged in the information for the reason that a substance, to wit, a dilute terpeneless lemon flavor, had been mixed and packed with it in such a manner as to reduce and lower and injuriously affect its quality and strength. Adulteration was alleged for the further reason that a substance, to wit, a dilute terpeneless lemon flavor had been substituted wholly or in part for the genuine article, lemon flavor, and for the further reason that the product had been colored in a manner whereby inferiority was concealed. Misbranding was alleged for the reason that the product was labeled "Terpeneless Flavoring of Lemon," which statement was false and misleading, as the analysis showed it to consist of a dilute terpeneless lemon flavor, artificially colored, or approximately one-half standard strength. Misbranding was alleged for the further reason that the statement, "Terpeneless Flavoring of Lemon," borne on the label, misled or deceived the purchaser into the belief that the product was terpeneless flavoring of lemon, whereas analysis showed that it consisted of a dilute terpeneless lemon flavor, artificially colored and of approximately one-half standard strength.

The flavoring of vanillin was labeled: "Dr. Miller's Compound Flavoring of Vanillin. Price 10 cents. Guaranty Legend, Serial No. 8276. Prepared by National Chemical Company, Incorporated, Burlington, Iowa."

Analysis of a sample of this product by said Bureau of Chemistry showed the following results:

Vanillin (per cent)	0.68
Vanillin, melting point	79.5°C.
Coumarin (per cent)	0.16
Coumarin, Leach test	Positive
Coumarin, alcoholic potash test	Positive
Coumarin, melting point	67.0°C.
Resins	None
Lead number	0.06
Color value of extract:	
Red	15.0
Yellow	45.0
Color value of lead filtrate:	
Red	10.0
Yellow	30.6
Per cent of original color in lead filtrate:	
Red	67.0
Yellow	68.0
Ratio, red to yellow, extract	1:3.0
Ratio, red to yellow, lead filtrate	1:3.0

Colors, A vegetable red, an oil-soluble green, and Naphthol Yellow S.

Adulteration of the product was alleged in the information for the reason that a substance, to wit, a compound of vanillin and coumarin, artificially colored, had been substituted wholly or in part for the genuine article, a compound flavoring of vanillin. Adulteration was alleged for the further reason that the product was colored in a manner whereby inferiority was concealed. Misbranding was alleged for the reason that the product was labeled "Compound Flavoring of Vanillin," which statement was false and misleading, as analysis showed it to consist of a compound of vanillin and coumarin artificially colored. Misbranding was alleged for the further reason that the statement "Compound Flavoring of Vanillin," borne on the label, misled and deceived the purchaser into the belief that the product was a compound flavoring of vanillin, whereas analysis showed that it consisted of a compound of vanillin and coumarin, artificially colored.

On November 10, 1913, the defendant company entered its plea of guilty to the information and the court imposed a fine of $20 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 4, 1914.*

2846. Misbranding of substitute for coffee. U. S. v. A. Zverina. Plea of guilty. Fine, $25 and costs. (F. & D. No. 3915. I. S. No. 14856-c.)

On November 15, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against A. Zverina, Cleveland, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about December 9, 1910, from the State of Ohio into the State of New York, of a quantity of so-called "Essence for Coffee," which was misbranded. The product was labeled: "Finest essence for Coffee 'Simon Fischer,' Pittsburgh, Pa. General Distributors. Prepared from Wholesome Cereals and Caramel. * * *."

Microscopical examination of a sample of the product by the Bureau of Chemistry of this Department showed water; and that the insoluble part was largely composed of rye and corn with some chicory or dandelion and a small amount of ground prune stones. Misbranding of the product was alleged in the information for the reason that the statement "Prepared from wholesome cereals and caramel," borne on the label, was false and misleading because, as a matter of fact, the product was not composed of cereals and caramel, but contained in addition thereto ground roasted prune pits and chicory. Misbranding was alleged for the further reason that the product was so labeled as to mislead and deceive the purchaser, being labeled and branded "Prepared from Wholesome Cereals and Caramel," whereas, in truth and in fact, the product was not prepared wholly from cereals and caramel, as represented by the label, but contained in addition thereto chicory and ground roasted prune pits.

On November 19, 1912, the defendant entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 4, 1914.*

2847. Adulteration and misbranding of cattle feed. U. S. v. Imperial Grain & Milling Co. (Inc.). Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 3917. I. S. No. 12593-c.)

On November 23, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Imperial Grain & Milling Company, a corporation, Toledo, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 10, 1911, from the State of Ohio into the State of Rhode Island, of a quantity of cattle feed which was adulterated and misbranded. The product was labeled: (On bag) "100 Lbs., (Imperial) Corn, Oats & Barley Chop, Manufactured by the Imperial Grain & Milling Co., Toledo,

Ohio." (Tag on bag) "100 Pounds Corn, oats and barley chop, made by the Imperial Grain & Milling Co., Address Toledo, O. (Trade Mark) (Imperial) Guaranteed Analysis Protein 8.90 per cent., Fat 3.70 per cent., Fiber 11.75 per cent."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Moisture, 8.84 per cent; ether extract, 3.58 per cent; crude fiber, 12.48 per cent; protein, 8.06 per cent. Microscopical examination of the product showed it to contain oats, oat hulls, corn, corncob, at least 5 per cent; cotton-seed meal in small amount only; and only a trace of barley. Adulteration of the product was alleged in the information for the reason that it was labeled "Corn, oats and barley chop," whereas other substances, to wit, oat hulls and corncob, had been mixed and packed with it so as to reduce and lower and injuriously affect its quality and strength. Adulteration was alleged for the further reason that it was labeled "Corn, oats and barley chop," whereas other substances, to wit, oat hulls and corncob, had been substituted in whole or in part for the article. Misbranding was alleged for the following reasons:

(1) That the statement "Corn, oats and barley chop," borne on the label, was false and misleading in that it would convey the impression that the product was composed of said ingredients, whereas, in truth and in fact, it consisted of corn, oats, oat hulls, and corncob.

(2) That the product was labeled and branded so as to deceive and mislead the purchaser, being labeled "Corn, oats and barley chop," thereby purporting that it was composed of those ingredients, whereas, in fact, it consisted of corn, oats, oat hulls, and corncob.

(3) That the following statement, to wit: "Protein 8.90 per cent," borne on the label, was false and misleading in that it would convey the impression that the product contained said amount of protein, whereas, in fact, it contained only 8.06 per cent protein.

(4) That the product was labeled and branded so as to deceive and mislead the purchaser, being labeled "Protein 8.90 per cent," thereby purporting that it contained said amount of protein, whereas, in fact, it contained only 8.06 per cent protein.

On December 12, 1912, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 4, 1914.*

2848. Misbranding of Creamthick. U. S. v. Oscar J. Weeks. Tried to a jury. Verdict of guilty. Fine, $100. (F. & D. No. 3919. I. S. No. 3404-d.)

On February 4, 1913, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Oscar J. Weeks, doing business under the name of O. J. Weeks & Co., New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on September 28, 1911, from the State of New York into the State of Missouri, of a quantity of a product called "Creamthick," which was misbranded. The product was labeled: "Creamthick—Serial No. 2049—Manufactured by O. J. Weeks & Co., New York, N. Y. It is guaranteed to contain no gelatine, gum arabic, egg albumen, or similar article."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed it to consist of a mixture containing approximately equal parts of Indian gum and rice flour. Misbranding of the product was alleged in the information for the reason that the statement on the label, "It is guaranteed to contain no gelatine, gum arabic, egg albumen, or similar article," regarding the ingredients and substances contained in the product, was false and misleading, and the label was calculated to mislead and deceive the purchaser thereof, in that the product did contain as one of its ingredients an article similar to gum arabic, to wit, Indian gum.

On May 13, 1913, the case having come on for trial before the court and a jury, after the submission of evidence and argument by counsel, the following charge was delivered to the jury by the court:

HAND, *Judge*. Gentlemen, the charge against this defendant is the violation of the Pure Food & Drugs Act. That act provides that if any part of the label on goods sent in interstate commerce is misleading, the crime has been committed.

The jurisdiction of this court to determine that depends on the fact that the Government has charge of interstate commerce. I do not recall whether any of you gentlemen have had any such case or not, but to such of you as have not, it may be necessary to explain just why we are all here. Congress has attempted by this law to keep people from sending from one State to another food about which there are misstatements of fact—in this case, on the can.

The defendant is not charged with having adulterated this substance, so you need not concern yourselves about that. I remember, last night, one of the jurors wanted to know whether there was anything deleterious or injurious in this. The Government concedes that there is not. And I think I told him, and I tell you now, that that has nothing to do with the matter, because we are concerned not only with prevention of those things getting into food which are injurious, but we are also concerned with having people know what they get from the outside of the package. I think that will commend itself to your good sense and judgment, that when we buy something as a food, a man shall not be allowed to mislead us about it, and if he makes any statement about what is inside of the package, and it turns out to be untrue, he cannot come to me and say, "Well, it is true that I did not sell what I said I would sell you, but it did not do you any harm; you are just as well off as though you had what I sold you." You would answer him by saying, "That may all be very true, but it is not relevant; I am entitled to know what I am getting, and I am entitled to rely on what you tell me I am getting, and if you have not given me what you told me I was getting, I have a grievance against you." And it is that grievance which Congress has sought to prevent—within the limits of the power of Congress, which means interstate commerce, and it is on that charge that this defendant is before the court. So it is of no consequence in the case whether you find rice flour is innocuous, or the gum chadya which you eat.

Now, there is a very limited statement here which is the only thing that this case turns on. This defendant has invented a name of his own for this substance, and he is entitled to use it—an artificial name—no one challenges it. And you see that there is a good deal of printed matter on the outside of the can here. You can take it and read it if you like, but it will not help you in deciding the case, excepting insofar as it may color and throw light upon the particular phrase, which is the phrase which the Government challenges in this case. I am going to speak of that in a moment. But it is perfectly proper for you to take this and read the whole of it if you like, in an effort to understand what the words which the Government has singled out really mean.

Now, gentlemen, you have in this case to deal with something that we in court have very constantly to deal with, and that is the meaning of language. I suppose all of you, although none of you are learned in law, know how ambiguous language is. A great diplomatist once said that words were designed to conceal ideas. And sometimes, it almost seems as though they were. At least, they can be made to conceal ideas. But that is not the purpose, and that is not what they do between man and man. They are meant to convey ideas, and the only way that you can get the meaning of words, is not by taking them and reading them from a dictionary. Lawyers very often come to me when I construe a statute, and bring to me a dictionary to use, and I find that it does not help me a bit. I do not care so much what the dictionary says. What I try to do when I am finding out what words mean, and particularly written words, is to exercise a certain process of imagination in the matter. I try to put myself in the position of the man that used the words. What did he think those words would mean to the people to whom he used them? When I try to do that, the next thing I have to do is to say, Who did he think would read those words? What other words did he think these men would read alongside of them? What was the class of people whom he knew was going to see what he wrote? And then I try to construct in my own mind, not by any artificial rule, but by general common sense, so far as I have it, to reconstruct what the meaning would be to the man who read them. That is what you must do in this case.

These words were not to be read by chemists, gentlemen; they were not to be read by botanists; they were not to be read by people who dealt in nice distinctions; they were not to be read by lawyers; they were to be read by bakers and confectioners, plain men accustomed to use language—not with the nice accuracy of a

trained expert, but as ordinary men do. And so when you come to find out what this meant, I apprehend that you won't understand that the people who read this, were people who would dissect all the language bit by bit.

The language which is criticised here by the Government is that which is a part of this printed matter below the line "Creamthick," which I show you now. It goes down in three paragraphs of some length. You are entitled, in order to determine the words in question, to take the whole of them, and say what the sentiment of those words was; what the plain men, when they read this, would understand the man meant who put it on. He first says that this substance is smooth enough for cream, and is meant to take the place of whole eggs in ice cream, or egg whites in ice cream and so forth; that it entirely replaces gelatine. Then come the words, "It is guaranteed to be a pure food preparation, to contain no gelatine or egg albumen or similar article."

Now, if he had stopped at the words "Or similar article," the Government would not have objected to it here, because it does not contain gelatine, albumen or egg albumen. But he went farther than that. He said, it contained nothing of the sort. That is one interpretation—one possible interpretation of the language, and it would be important, if it rested with me, which it does not, to determine the meaning of these words.

Supposing he had said, "It is guaranteed to contain no gelatine, egg albumen, or anything of the sort." Now, did that mean that it might contain this gum chadya? That is the whole case in a nut shell.

Did it to the ordinary baker and confectioner, include gum chadya? We know now that this gum arabic and gum chadya have certain different properties; a chemist will tell you that they are different. I should say that they have actually different properties so far as water absorption is concerned, because this gum chadya is a much greater water absorber, though not any more than gelatine, and gelatine is used next to gum arabic in this label. But it is true nevertheless, that it has a water absorption very much greater than gum arabic. But when he said, gelatine, gum arabic or egg albumen, would anyone think, who would read those words, that he would put in another kind of gum, a water absorbing gum, which will act better towards making the ice cream hold up in a solid block underneath than gum arabic?

I take it that we must assume that he supposed that the bakers might think that the gelatine and gum arabic and egg albumen were things which were used in substances of this sort. It would be a reasonable inference to suppose that he must have thought so, if he indicated as one of the merits of this preparation that it did not have any of them. When he grouped those three together, and then said this had not anything of the sort, did he lead anyone to suppose that it did not include something like this gum? That is the whole case. That, gentlemen, is the question of fact, the meaning of the language and the character of the substance, which is entirely in your hands. You are the final arbiters of that fact. In this case it is the meaning of the language itself.

You must find—I think I have told you this in other cases in this term—that question of fact against the defendant beyond a reasonable doubt. That is to say, if you have any doubt on the subject which is not purely a fictitious one, you must bring in a verdict of not guilty. If it seems to you quite clear that the ordinary people, plain men in the trade who used and read those words would think that it did not have any of the gum, gelatinous gum, then the defendant is guilty, but if when he said that it did not contain gum arabic, that did not include that kind of gum, then your verdict must be in favor of the defendant.

In other words, to convict you must find that this gum was similar to gum arabic in the minds of men who would buy this stuff; that they would read gum arabic and this gum chadya as similar. If you can determine that, it is of no earthly consequence whether there is a chemical difference or not.

Now, gentlemen, there is one question in the case that I want to take up and disabuse your minds of, because I must say that I made an error on it yesterday, and I am going to try to impress upon you what I say now, so that by no chance will it injure the defendant. I permitted yesterday proof of a prior conviction of this defendant under the Pure Food Law. That was a mistake on my part. There are some cases where conviction involves moral turpitude on the part of the witness, which we allow in to impeach his general credibility. That is rather a ponderous way of saying that we allow proof that he had been convicted of immoral acts, so the jury may consider whether he is worthy of belief. But this conviction was a prior conviction under the Pure Food Law, and was not such a conviction as that. The reason is, a very good common sense one, because it does not necessarily involve any immoral act on the part of the defendant. A man may be convicted under this act for carelessness in branding, which does not involve his knowledge that he was misleading

any one. And so it would be very unfair to the defendant if you should consider that conviction against him. You have no right to consider it in weighing his testimony, and you under no circumstances would have any right to reason in this way: "Because he has been convicted once of violating this act, therefore it is likely he would do the same thing again." In the first place, it has no logical bearing on the facts of the case. You know all the facts here. All you have to do now is, independently and of your own will, to make up your minds about the meaning of that language. So I lay that question out of the case.

There are some questions which I have been asked to charge you, and I will go over them now, gentlemen, and perhaps I will think I have not covered some of them.

I will charge you that in order to find the defendant guilty, you must find that this product which contained gum chadya, and that the gum chadya was similar to the gum arabic—I have already told you that—I mean, find it similar in the sense in which that word is used on the label. You must find the label to be misleading. I think I have covered that word. And, that it was calculated to mislead and deceive the purchaser. It is true that some evidence was introduced to the effect that he never had misled a purchaser, but that in so far as purchasers never may have found out that gum chadya was here, such evidence was not very important.

Mr. Carlin suggests to me that I tell you that the test is not between this gum and gum arabic as put into the mouth but as it is put into the stomach in ice cream, or the other article mentioned on the label. I think that is true. No one expects this gum to be eaten as gum—it is mixed up here with flour, and then the whole substance is added to milk and made into ice cream.

Mr. Carlin. If the Court please, I wish to except respectfully to that part of your Honor's charge where I understood the court to say that people were entitled to know from the label what they were getting. I ask the court to limit the statement, that the man need not necessarily state on the label what the product contains, but that if he makes a statement, it must be a true one.

The Court. That is absolutely true. I think the jury understand that he is not guilty, because he had failed to state that gum chadya was here, but only on the theory that he stated that there is nothing like gum arabic, and we find that that is like gum arabic. I think you understand that. It is not for failure to state it—it is for misstating, misleading.

Mr. Carlin. I ask the court to charge the jury that in reading this whole label, as the Court charged, it is solely for the purpose of interpreting the language mentioned in the information, and that they shall not consider any other statement, whether it is false or untrue, or whether in their opinion it is correct or not, as bearing on the guilt or innocence of this defendant.

The Court. I think I did so charge. I will repeat it for you, if I have not made it clear.

Mr. Carlin. I respectfully except to that part of the court's charge in which he said that he construed the word similar as meaning nothing of the sort.

The Court. As to that, gentlemen, it would be my opinion personally, what I would do if I had the case. I want to make it quite clear, that that question is a question of fact, and on all questions of fact you are the final arbiters. If you do not agree that "similar articles" means "anything of the sort," why, make up your mind. What I say does not bind you. You are the jury.

Mr. Carlin. I ask the Court to charge that this product being used by ice cream manufacturers and confectioners, that those dealers necessarily use it for certain purposes, and that they themselves would know whether or not such a substance producing such a result necessarily contained a gum substance or not.

The Court. Why, I do not know anything about that.

Mr. Carlin. They are entitled to take that into consideration, that these men would necessarily know.

The Court. I cannot state that. I do not know to what extent the ordinary men to whom this comes would be aware that there was some gummy substance or something like gelatine is in it; or whether he would be led to suppose there was not, when he gets word that it contains no gum arabic, egg albumen, or similar article. If I was there, I should suppose just the opposite. But it may be that such men are able to tell from this use of the substance, whether it has a gum. I am sure I cannot tell. I do not think I can make such a charge. I have no knowledge of the extent to which they are aware of the substance from its effect.

Mr. Carlin. I might make this clear. I think the jury should take into consideration that a man using a substance would know its result, and therefore know whether a gummy substance was necessary to obtain that result,—that is, the absorbing of water.

The COURT. They would know what the effect was on the ice cream, or what the usual effect—I should think there was some doubt about it. It is all a question of fact.

Mr. CARLIN. I would ask that the jury be permitted, if there is no objection, to take any of these samples.

The COURT. They may take any that they desire.

The jury thereupon retired and after due deliberation returned a verdict of guilty, and thereupon counsel for defendant moved the court to set aside the verdict for a new trial and an arrest of judgment, which motion was denied by the court, and an exception was then taken by defendant. The court thereupon imposed a fine of $100.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 9, 1914.*

2849. Adulteration and misbranding of peppermint flavor. U. S. v. S. Hirsch Distilling Co. (Minuet Cordial Co.). Plea of guilty. Fine, $100 and costs. (F. & D. No. 3924. I. S. No. 12487-d.)

On July 19, 1912, the United States Attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the S. Hirsch Distilling Co., a corporation, Kansas City, Mo., doing business under the name of Minuet Cordial Co., alleging shipment by said company, in violation of the Food and Drugs Act, on or about October 11, 1911, from the State of Missouri into the then Territory, now State, of New Mexico, of a quantity of peppermint flavor which was adulterated and misbranded. The product was labeled: "Peppermint Flavor Artificially Colored Minuet Cordial Co., Kansas City, Mo. Serial No. 5897 'A'."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Specific gravity, 15.6° C., 0.9319; alcohol (per cent by volume), 51.2; solids, 0.03 per cent; peppermint oil, trace; color, Naphthol Yellow S and Light Green SF Yellowish. Adulteration of the product was alleged in the information for the reason that there was mixed, packed, and mingled therewith a certain substance, to wit, a highly dilute peppermint extract containing a trace only of peppermint oil, thereby reducing, and lowering and injuriously affecting the quality and strength of the product, and that there was substituted for genuine peppermint extract as commercially known, that is to say, a flavoring extract prepared from oil of peppermint, or from peppermint, or both, and containing not less than 3 per cent by volume of oil of peppermint, an adulterated compound containing only a highly dilute extract of peppermint, containing a trace only of oil of peppermint by volume, and that the product was artificially colored to give it the effect and color of peppermint oil and the extract thereof and to conceal the identity of its inferiority. Misbranding was alleged for the reason that the product was marked, labeled, and branded as set forth above and was misbranded in that the same was false and misleading because it misled and deceived the purchaser thereof into the belief that the product was peppermint extract as the same is commercially known, that is to say, an extract prepared from oil of peppermint, or from peppermint, or both, and containing not less than 3 per cent, by volume, of oil of peppermint, whereas, in truth and in fact, the product was a highly dilute peppermint extract, artificially colored and containing a highly dilute extract of peppermint, containing an inestimable amount of peppermint oil, and that said product was further misbranded in that the label purported it to be an extract of peppermint, whereas, in fact, it was a highly dilute extract of peppermint, artificially colored and thereby tending to mislead and deceive the purchaser into the belief that he was purchasing peppermint extract as commercially known as aforesaid.

On November 14, 1912, the defendant company entered a plea of guilty to the information and the court, on June 27, 1913, imposed a fine of $100 and costs.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 4, 1914.*

2850. Misbranding of Rock-Rye. U. S. v. E. G. Lyons & Raas Co. Plea of guilty. Sentence suspended. (F. & D. No. 3927. I. S. No. 13199-d.)

On February 4, 1913, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against E. G. Lyons & Raas Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on November 21, 1911, from the State of New York into the State of Connecticut, of a quantity of so-called Rock-Rye which was misbranded. The product was labeled "Perfection Rock-Rye. Horehound, Irish moss, tolu, white pine, pineapple, lemon and orange. Cordialized. Guaranteed under the Pure Food and Drugs Act, June 30, 1906. Serial No. 5408. E. G. Lyons & Raas Co., San Francisco and New York. Perfection Rock-Rye is made from the finest products and excels in quality other so-called rock and rye. Its various ingredients, horehound, Irish moss, tolu and white pine are well-known for their medicinal properties, and are highly recommended by the medical profession as a cure for coughs and colds. Pineapple, lemon and orange are used to give the beverage a fine and palatable taste and flavor. E. G. Lyons & Raas Co. San Francisco, Cal. New York."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Specific gravity at 25° C., 1.0993; solids (grams per 100 cc), 33.29; ash (grams per 100 cc), 0.115; alcohol (per cent by volume), 23.20; pieces of pineapple, orange and lemon floating in the liquid. Tolu, white pine, and horehound indicated. The alcohol was not declared upon the label of the package. Misbranding of the product was alleged in the information for the reason that the package in which it was shipped failed to bear a statement on the label thereof of the quantity or proportion of alcohol contained therein, whereas, in truth and in fact, it contained alcohol to the extent of 23.20 per cent by volume.

On February 10, 1913, the defendant company entered a plea of guilty to the information and the court suspended sentence.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2851. Adulteration of syrup. U. S. v. Clarence A. Crane Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 3930. I. S. No. 10891-c.)

On November 15, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Clarence A. Crane Co., a corporation, Warren, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about June 30, 1910, from the State of Ohio into the State of Washington, of a quantity of syrup which was adulterated. The product was labeled: "This package contains 2½ lbs. net weight. Queen Brand (Queen) Maple & Cane Syrup Put up for Augustine & Kyer, Seattle, Wash."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed that water had been substituted in part for the article. Adulteration of the product was alleged in the information for the reason that a substance, to wit, water, had been mixed and packed with it so as to reduce or lower or injuriously affect its quality and strength, and for the further reason that a substance, to wit, water, had been substituted wholly or in part for the article.

On March 18, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2852. Adulteration and misbranding of banana brandy and apricot brandy. U. S. v. One Hundred Quart Bottles "Pan Dandy Banana Brandy" and One Hundred Quart Bottles "Pan Dandy Apricot Brandy." Decree of condemnation by consent. Product released on bond. (F. & D. No. 3937. S. No. 1375.)

On May 9, 1912, the United States Attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 100 quart bottles of Pan Dandy Banana Brandy and 100 quart bottles of Pan Dandy Apricot Brandy, remaining unsold in the original unbroken packages and in possession of A. D. Walstrom, Birmingham, Ala., alleging that the product had been shipped from the State of Ohio into the State of Alabama and charging adulteration and misbranding in violation of the Food and Drugs Act. The banana brandy was labeled: "Pan Dandy Banana Brandy Cordialized. Harris Johnson and Company, Cincinnati, O."; the apricot brandy was labeled: "Pan Dandy Apricot Brandy Cordialized. Harris Johnson & Company, Cincinnati, O."

Adulteration of the products was alleged in the libel for the reason that they consisted of a flavored and colored solution of alcohol and sugar substituted for cordialized apricot and banana brandy and so mixed and colored as to conceal inferiority. Misbranding was alleged for the reason that the goods were neither brandy nor cordialized brandy and the labels were false and misleading.

On November 5, 1913, Samuel L. Harris, Morton Harris, and Fred A. Johnson, co-partners, trading under the name of Harris, Johnson & Co., Cincinnati, Ohio, having appeared and consented to a decree, judgment of condemnation and forfeiture was entered and it was ordered by the court that the products should be delivered to said claimants upon payment of the costs of the proceedings and execution of bond in the sum of $400 in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2853. Adulteration and misbranding of extract of vanillin and coumarin. U. S. v. McConnon & Co. Tried to a jury. Verdict of guilty. Fine, $75. (F. & D. No. 3951. I. S. No. 12082-d.)

On May 20, 1913, the United States Attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against McConnon & Co., a corporation, Winona, Minn., alleging shipment by said company, in violation of the Food and Drugs Act, on July 10, 1911, from the State of Minnesota into the State of Tennessee, of a quantity of so-called McConnon's extract of vanillin and coumarin which was adulterated and misbranded. The product was labeled: "McConnon's Extract of Vanillin and Coumarin. Alcohol 24% Net contents from 4½ to 4¾ oz. Burnt sugar color Prepared only by McConnon & Company, proprietors McConnon's Remedies, Winona, Minnesota. * * *"

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Specific gravity at 15.56°C./15.56°C	1.1060
Ethyl alcohol (per cent by volume)	19.7
Methyl alcohol	None.
Solids (per cent by weight)	33.3
Coloring matter	Caramel.
Volume in container (claim, 4½ to 4¾ ounces) (ounces)	5.12
Vanillin (per cent by weight)	0.46
Coumarin (per cent by weight)	0.18
Coumarin (Leach's test)	Present.

Vanilla resins, none detected; lead precipitate, none.

Adulteration of the product was alleged in the information for the reason that it purported to be and was represented to be an extract of vanillin and coumarin, whereas in truth and in fact it was a compound of vanillin and coumarin, mixed and colored with burnt sugar in a manner whereby the inferiority of said product was concealed. Misbranding of the product was alleged for the reason that the label and brand thereon contained and bore a statement regarding such article which was false and misleading, and that by said label and brand the article purported to be and represented to be an "Extract of Vanillin and Coumarin burnt sugar color," whereas, in truth and in fact, it was not an extract of vanillin and coumarin, but was a compound of said vanillin and coumarin, artificially colored with burnt sugar in imitation of vanilla extract. Misbranding was alleged for the further reason that the product labeled and branded as aforesaid purported to be and was represented to be an extract of vanillin and coumarin, whereas, in truth and in fact, it was a compound of said substances with burnt sugar color, and prepared in imitation of vanilla extract and offered for sale without being labeled as an imitation of vanilla extract. Misbranding was alleged for the further reason that the product purported to be and was represented to be an extract of vanillin and coumarin, whereas, in truth and in fact, it was a compound of vanillin and coumarin and was not labeled and branded so as to plainly indicate that it was a compound, with the word "Compound" plainly stated upon the package in which it was offered for sale.

On May 22, 1913, the case having come on for trial before the court and a jury, after the introduction of evidence and argument by counsel, the following charge was delivered to the jury by the court:

Morris, *Judge*. Gentlemen of the Jury: The defendant company in this case stands here charged with the violation of what is known as the Pure Food and Drugs Act, passed by Congress on the 30th day of June, 1906. It is charged with violating this act in two respects. First, with violating the section against misbranding of articles of food; and second, with violating the section of the act against adulteration of food. The charge rests upon the label placed upon the bottles of the preparation here in question. The first count in the indictment charges a misbranding, and the section of the law, as far as it is necessary to be considered here, is as follows: "That the term misbranding as used herein shall apply to all articles of food or articles which enter into the composition of food, packages the labels of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular." * * * "That for the purposes of this act an article shall also be deemed to be misbranded" * * * in the case of food, first, if it be an imitation of another article; second, if it be labelled or branded so as to deceive or mislead the purchaser." The third subdivision I need not read. "And fourth, if the package containing it or its label shall bear any statement, design or device regarding the ingredients of the substances contained therein, which statement, design, or device shall be false or misleading in any particular."

The defendant stands here charged with having violated that section of the act, in that, in this label he has caused people to buy what is in reality an imitation of another article, to-wit, vanilla extract or extract of vanilla. In this first count it is also charged that by this label this preparation was so labelled as to mislead purchasers, and third, it is charged that the label and brand contain statements regarding the ingredients contained therein, which statements are false or misleading. Those are the three particulars in which this act is alleged in this information to have been violated in the misbranding. In this information it is also charged that this preparation was adulterated, and thereby violated this provision of the act, "That for the purposes of this act an article shall be deemed to be adulterated if it be colored in a manner whereby inferiority is concealed."

Then first, as to the misbranding that is charged. You know what the label is, the bottle is there and the label is on it. It is charged that that label is such that it causes people to believe that it is something that it is not. In other words, that the label makes this preparation an imitation of another article, that is, an imitation of vanilla extract. Also that the package is so labelled as to deceive or mislead the purchaser; and third, that the label contains a statement in regard to the ingredients or substances contained therein which is false or misleading.

The object of this act, as has been stated by counsel on both sides, is twofold. First, to prevent people who have articles to sell from placing them in ingredients that are injurious or deleterious to the health of people, and causing them to buy without knowing that fact. Now, as far as this information is concerned, that may be left out of the question, because there is no charge and no proof of that; indeed, it is admitted here in court that there is nothing in this preparation which is injurious to the health of anybody. So that we pass to the second object of this act, and that is the one which it is charged here this defendant has violated. The second object of the statute is to prevent people from so labelling an article that a man buying it will think that he is buying one thing, when in reality he is buying another. In this case the charge is that this label is so made that people purchasing this preparation would think, and would have good reason to think, and the label would lead them to believe, that they were buying vanilla extract, when in truth and in fact they were buying something else, to-wit, a preparation, whether we call it an extract or a compound or a mixture, made of vanillin and coumarin and burnt sugar. So that it seems to me the whole of this case simmers down to one proposition, and that is this: Is that label so worded and so printed, taking it as it looks and as it is, the type on it and everything about it, and in connection with the color of the preparation,—is that label such that a purchaser of this article would think, and have reason to think and believe, when he reads the label, that he was buying vanilla extract, when he was in fact buying another thing? The whole question simmers itself down to that.

As to the misbranding; Is that article so branded, first, that it is an imitation of vanilla extract; that people buying it and looking at the brand, and looking at the article, would think that it was vanilla extract? That is the first charge. Second, Is this so branded as to deceive and mislead anyone buying it into the belief that he was buying vanilla extract, when in fact he was buying another mixture? And, third, does it contain a statement which is false or misleading?

You cannot say that the label is false, unless the word "extract" makes it false; that I shall come to hereafter. As to its ingredients, you cannot say that the label is false, because the label says that it does contain vanillin, that it does contain coumarin, that it does contain burnt sugar, and that it does contain alcohol. These things it says it contains. But is it misleading? Is it misleading in that it has the words extract of vanillin and coumarin colored with burnt sugar and with so much alcohol in it? Is it misleading by reason that the word extract is used instead of some other word, as, for instance, compound or flavoring, or some word other than extract? Does that make it misleading? Would that make a man going into a store and buying it, or buying it from a traveling vendor, looking at that label, think that he was buying extract of vanilla which is extracted from the vanilla bean;—not something made from a composition or extract of vanillin and coumarin, but an extract of the vanilla bean? Would the words used on that label, in the connection in which they are used, considering the color of the preparation that is in the bottle, would that make a man buying it believe that he was buying vanilla extract? That is the whole question.

Now, I come to the word extract. This label must be taken as meaning what would be ordinarily understood by the public in reading it. The ordinary and customary meaning given to the word is what should govern you in determining this question, and not the technical meaning of it. What impression, in other words, does that label produce upon the mind, your mind and my mind, when we go to buy that preparation? What impression, what meaning? That you must determine from all the testimony which has been offered here with reference to that question.

Extract of vanillin and coumarin, what meaning does that convey to our minds, the ordinary mind? What meaning does it convey to people who go and buy a bottle of flavoring for food? If that label, framed as it is, worded as it is, would cause an ordinary man to believe that he was buying vanilla extract, then this defendant is guilty. If it would not, then the defendant is not guilty, that is, on the first count of this information. That is the whole question. Take that label now as it stands, as it is, look at it with the wording on it and the coloring of the mixture in the bottle, would that cause the ordinary purchaser who wanted a flavoring extract to think and believe, and have good reason to believe, that he was buying vanilla extract, and not a compound of vanillin and coumarin with burnt sugar in it? If it would so mislead that purchaser, then that bottle is mislabelled and misbranded under this act, and this defendant is guilty. If it would not, then this defendant is not guilty, upon that proposition.

Now as to the adulteration part of it. "An article shall be deemed to be adulterated according to this act, if it be colored in a manner whereby inferiority is concealed." And this brings us right back to the same question. Does the coloring cause a man to believe when he wants vanilla extract that he is getting that or something that is not inferior to vanilla extract? Do I make myself understood? Does the coloring

in that bottle with that burnt sugar so operate that it would cause a man buying it, when he wanted vanilla extract, to think that it was the superior article and to get something which without that coloring he would have thought was an inferior article? That is the question on this second count. If that coloring matter does do that then this defendant is guilty on the second count; if it does not then it is not guilty.

So after all, it comes down to a single question as to whether or not the purchaser of that article has been deceived into buying a preparation of vanillin and coumarin when he thought he was buying extract of vanilla. That is about all there is of this case. A man has a right to use coloring matter in any article, provided that the coloring matter is not employed to imitate any natural product or another product of recognized name and quality. If this defendant employed that coloring matter for imitating the vanilla extract, and making people believe that they were getting vanilla extract, then it was employing it to imitate the natural product or some other product of recognized name and quality. That is where this coloring matter comes in. It comes in as bearing upon the intention of this defendant, as bearing upon the natural result of that labeling in connection with the coloring matter.

Now as to whether this defendant put that label on the bottle with the intention of causing this deception. If the putting of the label on the bottle must naturally and probably have produced that result, a man is held to intend to produce the natural and probable results of his action. Of course, if you believe from the evidence that this defendant colored that mixture and put that label on it with the actual intention of deceiving people who might buy it, then he violated this law. If the natural and probable result of putting that coloring matter in there and that label on the bottle would be to mislead the public, and to cause a man to think that he was buying vanilla extract when he was buying something else, then the defendant would be held to intend the natural and probable result of what he did even though you may not believe that such was his actual intention. That is all there is of this case.

This defendant stands here charged with an offence, which while it is a misdemeanor, gives him the right to the same degree of proof that he would have a right to in any criminal action. The facts which are necessary to be proved in order to convict him must be shown beyond a reasonable doubt, and the evidence must satisfy you beyond a reasonable doubt either that the defendant intended to accomplish the deceit, or that the natural and probable result or tendency of the label was to accomplish such deceit. The evidence must show and satisfy you of either of these matters beyond a reasonable doubt. I cannot give you any definition that would clear up what we mean by a reasonable doubt. The law writers and the judges have been trying to do that for a long time, and after all they get back to the words reasonable doubt. Those words mean exactly what they say; a reasonable doubt, not an imaginary or fanciful doubt, but a doubt such as you would act upon in the most important affairs of your own life. A doubt coming out of the evidence; a doubt arising from the evidence; not one that can be conjured up by the mind, not an imaginary, not a fanciful one, but a reasonable one. That is what it means. That doubt must be based upon the testimony. The Government must establish the fact of the defendant's guilt beyond a reasonable doubt. If this testimony does not so satisfy your minds, then this defendant is entitled to an acquittal. But, if it does so satisfy your minds, then there should be a conviction, and the defendant should be found guilty as charged either in the first or in the second count, or as in the entire information.

I have been talking to you about 15 or 20 minutes, and have got back to the original proposition. All there is in this case is, Did the defendant intend to accomplish a deceit, or was the natural tendency of this label to accomplish a deceit? Was that label such, taken in connection with the coloring of the product, taken in connection with what you believe to be the customary meaning of the word extract,—was that label such that it would naturally and probably cause a purchaser of that preparation to believe that he was buying vanilla extract when he was buying this preparation which is not vanilla extract? That is the whole thing.

The only way I can aid you in deciding that question, is put yourself in the place of a purchaser who wanted to buy a flavoring extract, an extract that would give the peculiar fragrancy and delicious aroma that a product of the vanilla bean gives, that we all know vanilla gives. Put yourself in the place of a man buying and being presented with that bottle with that label on it, with that coloring in it, and ask yourself the question, "Would I be deceived when I read that label into believing that I was buying vanilla extract?" If you believe that you would be or that an ordinary purchaser would be so deceived, then this defendant is guilty; but unless you are satisfied of that fact beyond a reasonable doubt, then this defendant is not guilty, and should be so found by any man who comes to that conclusion.

That is all, so far as I can see, that there is in this case. I have been presented with a number of instructions, but I think that I have got the law boiled down, and I think

I have got this case so that the jury understands it. Put yourselves in the place of a man buying a bottle of flavoring fluid,—that is what this is intended for,—to flavor food. Ask yourself, if a man comes to sell me that preparation—I look at it and read the label, I examine the color; would I be deceived into believing that I was buying vanilla extract instead of something else? That is the whole question.

Now, gentlemen of the jury, you have heard all the testimony and you will decide the case upon the testimony that has been offered here in court. There has been a whole lot of it; some of it I have not quite understood, I do not know whether you have or not, most of it I have. But, gentlemen, all these witnesses have been very frank, especially these scientific gentlemen; they have acted like men who are standing upon scientific principles. They have been frank and open, they have been clear, and if any part of their testimony I have not understood, it is not due to them, it is due to my own stupidity, or to my own lack of scientific training perhaps. But from all of this testimony you have got to decide this question. Was this defendant branding an article so that it would make people think, who were buying one thing, that they were buying another? Did the coloring matter in this fluid so change its character from what it would otherwise have been, as to make people believe that they were buying vanilla extract when they were buying something else? That is the whole question for you to decide.

After due deliberation the jury returned into the court with a verdict of guilty, and the court thereupon imposed a fine of $75.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D., C., *February 10, 1914.*

2854. Adulteration and misbranding of mace. U. S. v. Halligan Coffee Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 3954. I. S. No. 17401-d.)

On October 12, 1912, the United States Attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Halligan Coffee Co., a corporation, Davenport, Iowa, alleging shipment by said company, in violation of the Food and Drugs Act, on or about September 26, 1911, from the State of Iowa into the State of Illinois, of a quantity of mace which was adulterated and misbranded. The product was labeled: "Reliable Pure Mace packed for The Reliable Tea Co., Moline, Ill."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Nonvolatile ether extract (per cent)	49.30
Total ash (per cent)	2.15
Ash insoluble in hydrochloric acid (per cent)	0.23
Hefelmann's test for Bombay mace	Positive.
Waage's test for Bombay mace	Positive.

Adulteration of the product was alleged in the information for the reason that a substance, to wit, Bombay mace, had been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength, and in that a substance, to wit, Bombay mace, had been substituted in part for the article, mace. Misbranding was alleged for the reason that the statement, "Pure Mace," borne on the label was false and misleading because it deceived the purchaser into the belief that the product was composed entirely of true mace, whereas, in truth and in fact, it consisted in part of Bombay mace, which is not a true mace; and further, in that the product was so labeled and branded as to deceive and mislead the purchaser, being labeled and branded "Pure Mace," whereas, in truth and in fact, it was not pure mace but consisted in part of Bombay mace, which is not a pure mace as that term is understood by the trade and public.

On April 25, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2855. Adulteration and alleged misbranding of syrup. U. S. v. Western Reserve Syrup Co. Plea of guilty to count 1 of information. Fine, $10 and costs. Count 2 of information nolle prossed. (F. & D. No. 3964. I. S. No. 12904-d.)

On December 31, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in two counts against the Western Reserve Syrup Co., Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 18, 1911, from the State of Ohio into the State of Michigan, of a quantity of syrup which was adulterated and alleged to have been misbranded. The product was labeled: "Western Reserve Ohio Blended Syrup. Guaranteed absolutely pure. Purity our motto. Serial No. 4159. Western Reserve Syrup Co., Cleveland, Ohio."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Total solids (per cent)	69.13
Total ash (per cent)	.45
Insoluble ash (per cent)	.08
Soluble ash (per cent)	.37
Alkalinity of soluble ash (5 grams of sample) (cc N/10 acid)	2.00
Alkalinity of insoluble ash (5 grams of sample) (cc N/10 acid)	1.10
Alkalinity of 1 gram soluble ash (cc N/10 acid)	103.7
Alkalinity of 1 gram insoluble ash (cc N/10 acid)	350.0
Lead number	.60

The fact that nearly all the ash is soluble shows clearly that this is not a maple syrup and that the quantity of maple syrup, if any, is so small as not to give any character. The syrup has the taste of brown sugar, and would appear to be a cane sugar syrup flavored with refiners' syrup. Adulteration of the product was alleged in the first count of the information for the reason that a mixture of cane sugar syrup and refiners' syrup had been substituted wholly or in part for the article. Misbranding was alleged in the second count of the information for the following reasons: (1) In that the following statement, "Western Reserve Ohio Blended Syrup," borne on the label, was false and misleading because it misled and deceived the purchaser into believing that the product was maple syrup, whereas, in truth and in fact, it was a mixture of cane sugar syrup and refiners' syrup; (2) in that it was labeled and branded so as to deceive and mislead the purchaser, being labeled "Western Reserve Ohio Blended Syrup," thereby purporting that it was maple syrup, whereas in fact it was a mixture of cane sugar syrup and refiners' syrup; (3) in that the following statement, "Blended Syrup," borne on the label, was false and misleading because it created the impression that the product was a blend or a mixture of like substances, whereas, in truth and in fact, it was not a blend or mixture of like substances.

On October 23, 1913, the defendant company entered a plea of guilty to the first count of the information and the court imposed a fine of $10 and costs. The second count of the information, charging misbranding, was nolle prossed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2856. Adulteration of hay. U. S. v. One Hundred Bales of Hay. Default decree of condemnation. Product ordered sold. (F. & D. No. 3967. S. No. 1382.)

On or about May 14, 1912, the United States Attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 100 bales of hay remaining unsold in the original unbroken packages at Arringdale, Va., alleging that the product had been shipped during the spring of 1911 by the

Escanaba Produce Co., Escanaba, Mich., to the Camp Manufacturing Co., at Arringdale, Va., and transported from the State of Michigan into the State of Virginia, and charging adulteration in violation of the Food and Drugs Act. The product was invoiced as "Light Alsyke Mixed Hay."

Adulteration of the product was alleged in the libel for the reason that it consisted in part of filthy, decomposed, and putrid vegetable substance; that it contained a considerable quantity of weeds and trash; that it was dusty, moldy, and rotten, and not fit for consumption by live stock for which it was purchased.

On May 20, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2857. Misbranding of condensed milk. U. S. v. Fred C. Mansfield Co. Plea of guilty. Fine, $25. (F. & D. No. 3989. I. S. No. 17403-d.)

On February 6, 1913, the United States Attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Fred C. Mansfield Co., a corporation, Johnson Creek, Wis., alleging shipment by said company, in violation of the Food and Drugs Act, on November 13, 1911, from the State of Wisconsin into the State of Illinois, of a quantity of condensed milk which was misbranded. The product was labeled: (On shipping tags) "From Fred C. Mansfield Company, Manufacturers of Mansfield's Fine Creamery Butter, Johnson Creek, Wisconsin. A. C. Abraham, Moline, Illinois." (On barrels) "F. C. Mansfield Company, Manufacturers of Condensed Milk, Johnson Creek, Wisconsin."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Water (per cent)	26.09
Fat (by Roese-Gottlieb) (per cent)	4.78
Protein (N × 6.38) (per cent)	10.46
Lactose (by Munson & Walker) (per cent)	15.54
Sucrose, by difference (per cent)	40.79
Ash (per cent)	2.34
Total solids (by drying) (per cent)	73.91
Milk solids (per cent)	33.12
Ratio of proteins to fat	1:0.46

Misbranding of the product was alleged in the information for the reason that it was labeled as set forth above, when, as a matter of fact, the barrels did not contain condensed milk as understood by the trade and public and the contents of the barrels did not contain such percentage of total solids and of fat as is required by law, but in fact the contents of the barrels were a partly skimmed and sweetened condensed milk made from partly skimmed milk.

On June 28, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2858. Adulteration and misbranding of cheese. U. S. v. 146 Boxes of Cheese. Consent judgment of condemnation and forfeiture. Released on bond. (F. & D. No. 4004. S. No. 1389.)

On May 18, 1912, the United States Attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 146 boxes of cheese remaining unsold in the original unbroken packages and in possession of Swift

& Co., Savannah, Ga., alleging that the product had been shipped on or about April 29, 1912, by B. B. Miller & Son, Lowville, N. Y., and transported from the State of New York into the State of Georgia, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: (On containers) "Swift & Company—Savannah, Ga.—High Market." (On cheeses) "NY 1912.—Whole Milk Cheese."

Adulteration and misbranding of the product were alleged in the libel for the reason that into each of the said cheeses had been added and packed an excessive amount of additional water so as to make them contain an excessive proportion of water, to wit, exceeding 45.31 per cent, and that said cheeses were, by said excessive water, lowered, reduced, and injuriously affected in their quality and strength, and for the further reason that, for the contents of each of the cheeses, another substance, to wit, water, had been substituted in part for the milk and other normal constituents of said cheeses.

On August 29, 1912, said Swift & Co., claimant, having admitted the allegations in the libel and consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be released and delivered to said claimant upon payment of all costs of the proceedings and execution of bond in the sum of $250 conditioned that the product should be relabeled in conformity with law and any statement as to the composition and constituents of the cheese should be wholly omitted therefrom in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2859. Adulteration of frozen eggs. U. S. v. 13 Crates of Frozen Eggs. Tried to a jury. Verdict in favor of the Government by direction of the court. Decree of condemnation, forfeiture, and destruction. (F. & D. No. 4012. S. No. 1390.)

On May 18, 1912, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 13 crates, each containing 2 cans of frozen eggs, remaining unsold in the original unbroken packages and in possession of Armour & Co., New York, N. Y., alleging that the product had been shipped on or about May 10, 1912, by Armour & Co., Chicago, Ill., and transported from the State of Illinois into the State of New York, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the product was alleged in the libel for the reason that each of the 13 crates contained an article of food, to wit, frozen eggs, which being animal substance was in whole or in part filthy, putrid, and decomposed, contrary to the provisions of subdivision 6 of section 7 of the act of June 30, 1906.

On October 20, 1913, the case having regularly come on for trial before the court and a jury, after the submission of evidence and argument by counsel, the following direction to return a verdict in favor of the government was delivered to the jury on November 24, 1913, by the court:

Ray, *Judge.* The claimant, Armour and Company, of Chicago, Ill., having a plant and place of business there, is a purchaser of and dealer in eggs and other food products, not a producer. At Chicago, Ill., it purchased and had on hand these eggs in question and others like them. They were released from the shells and frozen, but by reason of decay had so far decomposed that they were not fit for human food or consumption as such. As unfit for human consumption these with others had been selected and segregated by claimant at Chicago, Ill., from their other eggs. It is conceded that these eggs had reached such a stage of decomposition as to come within the definition and description of "adulterated" articles of food if handled, shipped or sold, or intended to be shipped and sold as an article of food. Eggs in this condition may be sold and used as an article of food, or for tanning purposes, that is for use in the tanning of leather, and claimant had sold eggs of this description, selected and segregated at the same time as these, to a tannery or tanning firm located and doing business at a point not far distant from Chicago for tanning purposes. It had not shipped

or sold any of its eggs of this description to be used and consumed as an article of food and did not contemplate doing so.

The thirteen crates of frozen eggs seized and sought to be condemned in this proceeding were shipped by the claimant, Armour and Company, in interstate commerce from Chicago, Ill., to New York City, N. Y., where that corporation had and has a warehouse and place of business and had been received there, but had not been sold or disposed of or offered for sale when the seizure was made. There are tanneries in the vicinity of New York and, in fact, the intention of the claimant in so transporting these eggs in question from Chicago to New York was to offer them for sale and dispose of them if possible at New York for use in tanning and not for use or consumption as food. This intention or purpose of the claimant had not been disclosed in any way or manner to any person or by any labeling or branding. The eggs in question had not been denatured or subjected to any chemical or other process. They were rotten, decayed eggs, unfit for human food and came within the definition "adulterated" for the reason they consisted in whole or in part of a filthy and decomposed or putrid animal or vegetable substance. (See subdivision sixth, section 7, of the Food and Drugs Act of June 30, 1906, as amended August 23, 1912.)

By section 6 of the act it is provided that "The term food as used herein shall include all articles *used for food* * * * * * whether simple, mixed or compound." By section 2 "the introduction into one State from another State * * * * * of any article of food * * * * * which is adulterated * * * * * within the meaning of this act, is hereby prohibited." Section 10 provides for the seizure and condemnation of "any article of food * * * * that is adulterated * * * within the meaning of this act" and which having been transported in interstate commerce remains unsold &c.

The contention of the United States is that eggs are an article of food and that they remain such if not denatured or subjected to some chemical process which *destroys* them as an article of food and that when they become decomposed and therefore unfit for food they are within the meaning of the act (section 7, subdivision sixth), an *adulterated* article of food and subject to the condemnation of the act. The contention of the claimant is that while the eggs prior to decomposition were an article of food, when decomposed they have lost their character as an article of food if the owner does not *intend* to use, transport or sell them as an article of food but does intend to transport them and sell them for tanning purposes only, and transports them for that purpose only. The contention is that an undisclosed intent to transport in interstate commerce and sell decomposed eggs, which are actually unfit for food, for use in tanning only takes the same out of the category of "adulterated article of food."

The difficulty with this contention is that these eggs, or eggs of this character, not denatured, come squarely within the definition of an *adulterated article of food.* The character of the thing does not depend on the intent or purpose of the owner in transporting it or selling it, or the purpose the owner may have in selling it. It seems to me clear that the purpose of Congress was to prohibit the transportation of articles in interstate commerce which come within the definition given in the statute and make them subject to seizure and condemnation if so transported. If such is not the purpose then interstate commerce may be flooded with eggs of this character and the Government will be compelled to prove that the intent of the one transporting the article was to use or sell same as an article of food. Even if the burden is not shifted and the presumption is that it was intended to use or sell such an article as food or as an article of food, still the owner so transporting the article will escape the operation of the statute by swearing to an undisclosed intent which the Government will be unable to disprove, unless the article has been actually put on sale or sold as an article of food. If these eggs had been denatured so as to destroy them as an article of food, that is, take them outside the statutory definition of "adulterated" article of food the case would be entirely different. It is no hardship to give a construction to this pure food and drugs act which will make it effective and accomplish the purpose intended so long as it is not made oppressive. In all cases of the transportation of frozen eggs so far decayed as to render them unfit for human food the owner may denature them before shipping or perhaps label them, but in any event so long as the statute stands as it does the transportation in interstate commerce of frozen eggs, or eggs not frozen but so far decayed or decomposed that it may be said they consist "in whole or in part of a filthy, decomposed or putrid animal or vegetable substance" is prohibited as eggs, whether the contents of the shell be therein, or removed and in cans or other receptacles and frozen or unfrozen, are an article generally and almost universally used and dealt in as and for food and are adulterated when they consist of a "decomposed animal or vegetable substance." Eggs are either an animal or a vegetable substance. Clearly they are not a mineral substance. The title of this Food and Drugs Act declares it to be "An act to prevent the manufacture, sale or *transportation of adulterated*, or mis-

branded, or poisonous, or deleterious foods, drugs, medicines and liquors, and for regulating traffic therein, and for other purposes." Would it be an answer to the seizure and attempted condemnation of a car load of partly decomposed beef being transported from Chicago to New York, for the owner to say "I did not intend it to be used or sold in New York for food, but as soap grease or a fertilizer," such purpose not having been in any manner disclosed? Philadelphia Pickling Co. *v.* U. S., (C. C. A. 3rd Circuit) 202 Fed. R. 150, while not on "all fours" with this case in *all* its facts, is, it seems to me, on "all fours" in principle, unless it can be said that inasmuch as partially decayed eggs, a decomposed article of food, having become unfit for food, are no longer an adulterated article of food, but an article for use in tanning leather and hence not within the act at all as they may be and sometimes are used for that purpose. This contention can not be sustained. If decomposed eggs were incapable of being used for food, as in making cakes and the like, the case would be different. The construction of this Pure Food and Drugs Act contended for by this claimant would open the door to the unrestrained transportation in interstate commerce of partially decomposed eggs, as the owner and dealer would, it might be honestly, transport them for sale in another State for use in tanning and actually, so far as he is concerned, sell them for that purpose or to some one claiming to purchase them for such purpose, when in fact the purchaser was intending to use them as an article of food, or to dispose of them to some one to mix with flour &c. and use as an ingredient in an article of food, such as cake &c.

In Hipolite Egg Company *v.* United States, 220 U. S. 45, the object of this Pure Food and Drug Act is declared to be "to keep adulterated articles out of the channels of interstate commerce, or if they enter such commerce to condemn them while in transit, or in original or unbroken packages after reaching destination; and the provisions of section 10 of the act apply not only to articles for sale *but also to articles to be used as raw material in the manufacture of some other* product." In that case the "other product" was an article of food as the eggs were to be used for baking purposes, but I do not see that such fact affects the force of the decisions as to the purpose of the act, which is to prevent the transportation in interstate commerce of adulterated articles which these eggs, within the definition of the law making body, are conceded to have been.

Eggs released from the shell, and frozen or unfrozen, are an "article of food," and if adulterated their transportation in interstate commerce is prohibited, and the act says, (sec. 7,) "That for the purpose of this act an article shall be deemed to be adulterated * * * in the case of food, * * * Sixth. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not," &c. The fact that decomposed eggs *ought not* to be used for food or as an ingredient of some food article does not remove them from the category of adulterated article of food, they being within the statutory definition, nor does the fact that they may be used for tanning purposes. If the statute is to be construed so as to make it effective to prevent the interstate transportation of eggs, decomposed or partly decomposed, and hence unfit for human consumption, and thus carry out the intent and purpose of Congress, the eggs in question must be held to be within the operation of the act and subject to condemnation.

There will be an entry directing a verdict of condemnation and a judgment accordingly.

Thereafter a verdict having been duly rendered pursuant to said direction, upon motion of the United States Attorney, a judgment of condemnation and forfeiture was entered on December 1, 1913, and it was ordered by the court that the product should be destroyed by the United States marshal and that the costs of the proceedings, assessed at $69.03, be adjudged against the said Armour & Co., claimant.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 10, 1914.*

2860. Adulteration and misbranding of coloring matter for confectionery. U. S. v. Henry H. Ottens Manufacturing Co. Plea of non vult contendere. Fine, $50 and costs. (F. & D. No. 4015. I. S. No. 19151-c.)

On December 8, 1913, the United States Attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Henry H. Ottens Manufacturing Co., a corporation, Philadelphia, Pa., alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 2, 1910, from the

State of Pennsylvania into the State of Tennessee, of a quantity of coloring matter to be used in the manufacture of confectionery, designated as New Leaf Green Color and Coal Tar Color, which was adulterated and misbranded. The product was labeled: "Quaker Brand New Leaf Green Color Coal Tar Color. Henry H. Ottens Mfg. Co., Philadelphia. Guaranteed Non Poisonous Colors. Bakers and Confectioners Specialties. We guarantee coloring matter in this container to be of the group of seven colors mentioned in F. I. D. 76. The Henry H. Ottens Mfg. Co."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Naphthol Yellow S (Schultz & Julius No. 4) (per cent)	41.26
Martius Yellow (Schultz & Julius No. 3) (per cent)	.17
Light Green S F Yellowish (S & J No. 435) as Certified Light Green SF Yellowish Lot No. 142) (per cent)	36.05
No other coloring matters present.	
Arsenic as As_2O_3 (parts per million)	34.0

Adulteration of the product was alleged in the information for the reason that it contained a certain poisonous color, to wit, Martius Yellow. Misbranding was alleged for the reason that said article of confectionery was labeled and branded so as to deceive and mislead the purchaser thereof, in that the tin box containing the article of confectionery bore a label upon which were prominently displayed the words "Quaker Brand New Leaf Green Color Coal Tar Color, Guaranteed Non Poisonous Colors, The Henry H. Ottens Mfg. Co., Philadelphia, Pa.," which said label and representations thereon contained were calculated to lead the purchaser of the article to believe that it did not contain a poisonous color, whereas, in truth and in fact, it did contain a poisonous color, to wit, Martius Yellow.

On December 8, 1913, the defendant company entered a plea of non vult contendere to the information, and the court imposed a fine of $50 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2861. Adulteration and misbranding of olive oil. U. S. v. Two cases of olive oil. Decree of condemnation by default. Product ordered sold. (F. & D. No. 4022. S. No. 1397.)

On May 22, 1912, the United States Attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of two cases of olive oil remaining unsold in the original unbroken packages at Boston, Mass., alleging that the product had been shipped by Manganelli Milone & Co., New York, N. Y., and transported from the State of New York into the State of Massachusetts, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Qualita Superiore Tripoli e Italiana Olio Pure Garantito Sotto Qualsiasi Analisi Chimica—Guaranteed Under the Pure Food and Drugs Act, June 30, 1906. Garantito Sotto La Legge Del 30 Giugno 1906."

Adulteration of the product was alleged in the libel for the reason that a substance, to wit, cottonseed oil, had been mixed and packed therewith, thus reducing its quality and strength. Misbranding was alleged for the reason that the product was labeled as set forth above, which statement was false and misleading in that it would deceive and mislead the purchaser to believe that the food was manufactured in Tripoli and Italy, whereas, in truth and in fact, it was made in the United States of America.

On November 5, 1912, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered that the product should be sold by the United States marshal after branding it "Olive Oil and Cottonseed Oil."

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2862. Misbranding and alleged adulteration of fibered fish. U. S. v. Gorton-Pew Fisheries Co. Plea of nolo contendere to count 2 of information; placed on file. Counts 1, 3, and 4 nolle prossed. (F. & D. Nos. 4035. I. S. Nos. 3489-d and 3490-d.)

On June 15, 1912, the United States Attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in four counts against the Gorton-Pew Fisheries Co., a corporation, Gloucester, Mass., alleging shipment by said company, in violation of the Food and Drugs Act, on September 25, 1911, from the State of Massachusetts into the State of Missouri, of two invoices of fibered fish which was misbranded and alleged to have been adulterated. The product was labeled: (First invoice) (on case) "Swans Down. 2 doz. cartons Swans Down Fibered Packed by Gorton-Pew Fisheries Co., Gloucester, Mass., A. C. L. Haase & Sons ———" (On carton) "Swans Down Fibered Fish. Packed at Gloucester, Mass., U. S. A. Something New. Swans Down Brand for Fish Balls, Fish and Cream, &c. Try it. No soaking, no boiling, no odor. Fish balls in ten minutes. Put up by Gorton-Pew Fisheries Co. ———." (Second invoice) (on case) "Swans Down" "2 doz. cartons Swans Down Fibered Packed by Gorton-Pew Fisheries Co., Gloucester, Mass., ———" (On carton) "Swans Down Fibered Fish. Packed at Gloucester, Mass., U. S. A. ——— Put up by Gorton-Pew Fisheries Co. ———"

Analysis of samples of the product by the Bureau of Chemistry of this Department showed the following results: (1) Mohler test for benzoic acid, positive; anhydrous sodium benzoate, 0.111 per cent; (2) sodium benzoate, 0.03 per cent; Mohler test, positive. Adulteration of the product in one of the invoices was alleged in the first count of the information for the reason that a substance, to wit, sodium benzoate, had been substituted in part for said food. Misbranding of this product was alleged in the second count of the information for the reason that its package, and the label thereof, bore a certain statement, design, and device regarding it and the ingredients and substances therein, that is to say, the statement "Fibered Fish," printed on the package and label thereof, which was false and misleading in that it would mislead and deceive a purchaser into the belief that it consisted entirely of fibered fish, whereas, in truth and in fact, it did not consist entirely of fibered fish. Adulteration and misbranding of the second invoice were alleged in the third and fourth counts of the information in similar terms.

On March 11, 1913, the defendant company entered a plea of nolo contendere to the second count of the information, charging misbranding of the product, and on July 2, 1913, the court ordered the information placed on file as to said count. The first, third, and fourth counts of the information, charging adulteration of both invoices of the product, and misbranding of the second invoice of the product, were nolle prossed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2863. Adulteration and misbranding of coffee. U. S. v. E. B. Müller & Co. Plea of guilty. Fine, $50. (F. & D. No. 4036. I. S. No. 14529-d.)

On January 4, 1913, the United States Attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against E. B. Müller & Co., a corporation, of New York, N. Y., with a place of business at Port Huron, Mich., alleging shipment by said company, in violation of the Food and Drugs Act, on December 14, 1911, from the State of Michigan into the State of Kentucky, of a quantity of coffee substitute which was adulterated and misbranded. The product was labeled: "Arabian Blend Climax X" [Picture of camel stenciled on bag.] "Ouerbacker & Co., Louisville, Ky."

Examination of a sample of the product by the Bureau of Chemistry of this Department showed that it consisted of wheat, starch, cocoa shells, peanuts, and a legume.

Adulteration of the product was alleged in the information for the reason that it was labeled in such a manner as to purport to be coffee, whereas, in truth and in fact, other substances had been substituted wholly and in part for the article, to wit, cereal and legumes, as demonstrated by the analysis of samples of the product by the Bureau of Chemistry of the Department of Agriculture. Misbranding was alleged for the reason that there was printed on the product as the label thereof and on the 10-pound bags thereof the words and figures: "Arabian Blend Climax X," and said statement, "Arabian Blend Climax X," borne on the label, as aforesaid, was false and misleading for the reason that the aforesaid language conveyed and sought to convey the impression that the product was coffee, whereas, in truth and in fact, it was not coffee but a mixture of roasted cereal and legume prepared in imitation of coffee. Misbranding was alleged for the further reason that the product was an imitation of another article, to wit, coffee, and was not labeled, branded and tagged so as to plainly indicate that it was an imitation, and was so labeled and branded as to deceive and mislead the purchaser, being labeled and branded: "Arabian Blend Climax X," thus deceiving and misleading the purchaser into the belief that it was coffee when as a matter of fact it was not coffee but, on the contrary, a mixture of roasted cereal and legumes.

On January 10, 1913, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $50.

B. F. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2864. Adulteration and misbranding of orangeade. U. S. v. Tobias Miller (Golden Gate Fruit Co.). Plea of guilty. Fine, $10 and costs. (F. & D. No. 4048. I. S. No. 2630-d.)

On April 4, 1913, the United States Attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Tobias Miller, doing business under the firm name and style of "Golden Gate Fruit Co.," San Gabriel, Cal., alleging shipment by said defendant, in violation of the Food and Drugs Act, from the State of California into the State of Washington, of a quantity of orangeade which was adulterated and misbranded. The product was labeled: (On front of bottle) "Golden Gate Fruit Co. San Gabriel, Dolgeville & Alhambra, Cal. New York, N. Y. Orangeade Preserved with 1/10 of 1% bensoate of soda, color added Made from the finest selected fruit and granulated sugar Guaranteed by Golden Gate Fruit Co. under the National Food & Drugs Act, June 30, 1906." (On other side of bottle) "GGFCo Shake Well Before Using This syrup is made from ripe California oranges and granulated sugar. When diluted with six or seven parts of iced or carbonated water a delicious drink is produced. Also used for ices, creams and punches; a valuable article to have at your home"

Analysis of a sample of the product by the Bureau of Chemistry of this Department, showed the following results:

Solids (per cent)	64.7
Sucrose (Clerget) (per cent)	7.1
Reducing sugar, as invert (per cent)	56.3
Nonsugar solids (per cent)	1.3
Total acidity as citric (per cent)	1.33
Citric acid by Pratt method (per cent)	.75
Ash (grams per 100 cc)	.15
Potassium oxid in ash (per cent)	31
Sodium oxid in ash (per cent)	24
Color	Artificial

Adulteration of the product was alleged in the information for the reason that it was purported by its label to have been made from ripe California oranges and granulated sugar, whereas, in fact, other substances, to wit, citric acid and a coal tar dye,

had been substituted in whole or in part for said oranges and granulated sugar. Misbranding was alleged for the reason that the statements "Orangeade made from the finest selected fruit and granulated sugar," and "Made from ripe California oranges and granulated sugar," borne on the labels, were false and misleading in that they created the impression that the product was made solely from orange juice and sugar, when in truth and in fact said product contained citric acid and a coal-tar dye, the words "color added" appeared on said labels in such small type as not to correct the false impression created by the remainder of the label, and the presence of citric acid not being declared at all.

On September 2, 1913, the defendant entered a plea of guilty to the information, and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2865. Adulteration of tomatoes. U. S. v. 75 Cases of Tomatoes. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 4060. S. No. 1409.)

On June 1, 1912, the United States Attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 75 cases of tomatoes remaining unsold in the original unbroken packages and in the hands of M. Forchheimer & Co., Mobile, Ala., alleging that the product had been shipped on December 2, 1911, by the John Boyle Co., Baltimore, Md., and transported from the State of Maryland into the State of Alabama, and charging adulteration in violation of the Food and Drugs Act. The product was labeled: "Victory Brand, for soup, strained tomato trimmings and tomatoes. Always empty contents in a glass or earthen dish as soon as opened. Packed by the John Boyle Co., at Baltimore, Md., average weight 10 oz."

Adulteration of the product was alleged in the libel for the reason that it consisted in part of, to wit, 40,000,000 bacteria per cubic centimeter, to wit, 50 yeasts and spores per one-sixtieth cubic millimeter, and to wit, mold filaments found in 83 per cent of the microscopic fields examined, and that the same further contained pieces of decayed tissue of microscopic size, the exact amount of which was unknown to the United States Attorney, and was therefore adulterated in that it consisted in part of filthy and decomposed vegetable substance.

On April 15, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2866. Alleged adulteration of milk. U. S. v. William Elliott. Tried to the court and a jury. Verdict of not guilty by the jury. (F. & D. No. 4122. I. S. No. 1565-d.)

On July 15, 1912, the United States Attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against William Elliott, Central Village, Conn., alleging shipment by said defendant, in violation of the Food and Drugs Act, on September 6, 1911, from the State of Connecticut into the State of Rhode Island, of a quantity of milk which was alleged to have been adulterated. The can containing the product had a wooden plug marked "W. E. 5."

Bacteriological examination of a sample of said product by the Bureau of Chemistry of this Department showed the following results: 13,000,000 bacteria per cc, plain agar, 37° C., for 48 hours; 13,000,000 bacteria per cc, litmus lactose agar, 25° C., for 48 hours; 8,000,000 acid organisms per cc; 1,000,000 gas-producing organisms per cc; 100,000 streptococci; temperature at collection, 21° C. Adulteration of the product

was alleged in the information for the reason that it consisted in part of a filthy, decomposed, and putrid animal or vegetable substance.

On July 23, 1912, the defendant entered a plea of not guilty to the information and thereafter filed his demurrer to the information and plea to the jurisdiction, both of which were overruled by the court on the ground that they were filed too late, as the defendant had entered his plea of not guilty when first arraigned.

On September 24, 1913, the case having come on for trial before the court and a jury, after the submission of evidence and argument by counsel, the following charge was delivered to the jury by the court:

Martin, *Judge*. Gentlemen of the Jury: The constitutional right of liberty is so sacred that every person coming into court charged with a crime, whether it be a felony or a misdemeanor, is presumed to be innocent until the evidence overcomes that presumption of innocence to a decree arising to the mental condition of the jury, whereby there shall be no reasonable doubt. By reasonable doubt we mean just what those words indicate; a doubt arising beyond reason that develops from the evidence—that grows out of the evidence; not beyond a conjecture of a doubt, but a reasonable doubt. This respondent, Mr. Elliott, is charged here with the violation of the Pure Food Act, so-called. Now a little analysis of the law may aid you somewhat, probably materially in disposing of this question. The law, as applied to this case, is, to use the language of the law—"that it shall be unlawful for any person to manufacture within the territory of the United States, any article of food or drug which is adulterated or misbranded." You observe the language;—adulterated or misbranded—unlawfully to manufacture any article of food that is adulterated or misbranded. It is also unlawful for any person to ship or deliver for shipment from one State or Territory to another, any such manufactured, adulterated or misbranded article of food. Now, that is the law and in order to convict, you must find, beyond a reasonable doubt that this man did adulterate. No claim that he manufactured. No claim but what this was milk that came from his dairy of cows. The claim is that he adulterated that milk and then, in the language of the law, "delivered it for shipment into another State." Now, to sustain that you must find, beyond a reasonable doubt, both of those things; first, that he did adulterate and second, that he delivered it for shipment into another State and those two questions you must find beyond a reasonable doubt.

Now, you will naturally ask right off when you retire, what does "adulterate" mean; does it mean the accidental dropping of something into the milk or that something accidentally got into the milk and thereby changed its quality? Is that what is meant by adulteration? Well, now, the law itself says—"if it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter," it covers the meaning of "adulterated." Now you want to think of that pretty carefully; filthy, decomposed or putrid matter—putrid animal or vegetable substance. The law limits it right down to filthy, decomposed or putrid animal or vegetable substance.

Take the general scope of this Pure Food and Drug Act, which in my judgment is one of the most wholesome acts ever passed by Congress and it is the duty of the courts to see that it is enforced, was primarily driving at manufactured articles of drugs and food. Now the question is whether we have a case here that comes up to that point and we must keep within the law, and you will have to find from this evidence, beyond a reasonable doubt, that not only that milk was impure but that impurity consisted of a filthy or a decomposed or of a putrid animal or vegetable substance, in order to bring this man within the law. The law addresses itself to your common sense as to whether those things that were found in this milk show a state of facts that satisfy you, beyond a reasonable doubt, that those things were some one of these that I have enumerated and that this defendant, either through a purpose on his part or through carelessness—no claim of its being done on purpose, nobody claims that for it is conceded here that he is a good, upright man, now that may be by carelessness and a criminal carelessness, that is for you to say, but if you do not find that this milk was adulterated with some of these things that I have now enumerated, that is the end of your inquiry and your verdict should be "Not guilty." If you do find that the impurities in that milk come within the definition that I have just read to you, then you should inquire as to whether or not the evidence satisfies you, beyond a reasonable doubt, that it was the defendant's carelessness that got that impurity into the milk, and you will find that in the evidence.

There are just two branches of evidence—one is as to just what the chemists found there and the other as to the care the defendant took, and if in considering those two

questions you have a reasonable doubt, then you are to find in behalf of the defendant, if not, then it is your duty to convict. So the case rests right there.

And I want to say right here that no matter what the court may have said about the facts in this case as indicating to your mind what I think you ought to do, that is of no consequence; whether I think this man was guilty or not. You are not to guess as to what I think; you are to pass upon that and when I allude to the testimony, it is merely to illustrate the law and the question of the law; you take care of the facts.

Thereupon the jury retired and after due deliberation returned into Court with its verdict of not guilty.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2867. Adulteration and alleged misbranding of vinegar. U. S. v. Harbauer-Marleau Co. Plea of nolo contendere to count 1 of the information. Fine, $100 and costs. Count 2 nolle prossed. (F. & D. No. 4146. I. S. No. 9791-d.)

On November 23, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Harbauer-Marleau Co., a corporation, Toledo, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about October 9, 1911, from the State of Ohio into the State of Indiana, of a quantity of vinegar which was adulterated and alleged to have been misbranded. The product was labeled: (On barrel) "HO-Made Brand Pure Fermented Cider Vinegar Made for Ragon Brothers, Evansville, Indiana." "44 Oct. 9, 1911, Guaranteed under the pure food and drugs act, June 30, 1906, Serial No. 8904."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids (grams per 100 cc)	1.78
Reducing sugars, direct, after evaporation (grams per 100 cc)	.59
Nonsugars (grams per 100 cc)	1.19
Ash (grams per 100 cc)	.30
Alkalinity of water soluble ash (cc N/10 acid per 100 cc)	29.7
Ash in nonsugars (per cent)	25.2
Total phosphoric acid (mg per 100 cc)	22.2
Total acid, as acetic (grams per 100 cc)	4.02
Fixed acid, as malic (grams per 100 cc)	.025
Glycerol (grams per 100 cc)	.11

Adulteration of the product was alleged in the first count of the information for the reason that a substance, to wit, a dilute solution of acetic acid or distilled vinegar and a product high in reducing sugars and mineral matter, mixed and prepared in imitation of cider vinegar, had been and was substituted wholly or in part for the article (pure fermented cider vinegar). Misbranding was alleged in the second count of the information for the following reasons:

(1) That the statement "Pure fermented cider vinegar" borne on the package was false and misleading in that the product was not pure fermented cider vinegar but consisted in whole or in part of a dilute solution of acetic acid or a distilled vinegar and a product high in reducing sugars and mineral matter, mixed and prepared in imitation of cider vinegar.

(2) That it was an imitation of cider vinegar and was offered for sale under the distinctive name of another article, to wit, "Pure fermented cider vinegar."

(3) That it was so labeled and branded as to mislead and deceive the purchaser, being labeled and branded "Pure fermented cider vinegar" when as a matter of fact it was not pure fermented cider vinegar but consisted in whole or in part of a dilute solution of acetic acid or distilled vinegar, and a product high in reducing sugar and mineral matter, which had been mixed and prepared in imitation of pure fermented cider vinegar.

On January 27, 1913, the defendant company entered a plea of nolo contendere to the first count of the information, and the court imposed a fine of $100 and costs. The second count of the information, charging misbranding of the product, was nolle prossed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2868. Misbranding of feed. U. S. v. The Purity Milling Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 4158. I. S. No. 13689-d.)

On March 3, 1913, the United States Attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Purity Milling Co., a corporation, Manhattan, Kans., alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 16, 1911, from the State of Kansas into the State of Oklahoma, of a quantity of so-called Alfalfa Molasses Feed, which was misbranded. The product was labeled: "100 lbs. The Purity Milling Co. Alfalfa Molasses Feed, Manhattan, Kansas. Analysis: Protein 13.69%; fat .74%; fiber 19.94%; moisture 11.71%; ash 10.17%; nitrogen free extract 43.75%" (On tag): "100 lbs. Molasses Feed, analysis: crude protein 13.69%; fiber 19.94%; ash 10.17%; ether extract .74%; moisture 11.71%; nitrogen free extract 43.75%; Manufactured by the Purity Milling Co., Manhattan, Kansas."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Moisture (per cent)	17.81
Ether extract (per cent)	.88
Protein (per cent)	10.92
Crude fiber (per cent)	22.06

Misbranding of the product was alleged in the information for the reason that the statement on the label on each of the sacks containing the product, "protein 13.69%," was false and misbranded, as the product contained but 10.92 per cent of protein, which is one of the valuable ingredients of stock feed, and further, in that the statement "fiber 19.94%" was false and misleading, as it conveyed the impression that this amount of crude fiber, which is an undesirable ingredient, was present therein, when in fact a greater amount of crude fiber was present, to wit, 22.06 per cent. Misbranding of the product was alleged for the further reason that it was labeled and branded so as to deceive the purchaser into the belief that there was a greater amount of protein, a valuable constituent, therein, than was actually present, and that there was a less amount of crude fiber, which is an undesirable ingredient, than was actually present therein.

On April 15, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2869. Adulteration and misbranding of mustard. U. S. v. Belle Isle Mustard Works. Plea of guilty. Fine, $10. (F. & D. No. 4159. I. S. No. 2837-d.)

On July 30, 1912, the United States Attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Belle Isle Mustard Works, a corporation, Detroit, Mich., alleging shipment by said company, in violation of the Food and Drugs Act, on September 20, 1911, from the State of Michigan into the State of Ohio, of a quantity of mustard which was adulterated and misbranded. The product was labeled: (On one end of barrels) "Belle Isle Brand prepared Mustard, put up by E. A. Charbonneau, Detroit, Mich. 45" (On other end of barrels) "Finn & Labadie, Cleveland, Ohio."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Total solids (per cent)	13.36
Remaining water (per cent)	5.94
Salt (per cent)	16.64
Fat (per cent)	19.38
Crude fiber (per cent)	7.99
Nitrogen (per cent)	3.59
Nitrogen to salt, fat, and water free basis (per cent)	6.18
Protein, air-dry (per cent)	22.43
Protein (salt, fat, and water free basis) (per cent)	38.62
Turmeric (per cent), approximately	.75
Crude fiber (per cent)	13.29

Adulteration of the product was alleged in the information for the reason that it was an inferior mustard and was colored with turmeric, an artificial coloring, in a manner whereby the appearance of a superior grade of mustard was simulated and the inferiority of the article was concealed, as shown by the analysis set forth above. Misbranding was alleged for the reason that the product was labeled or branded so as to deceive or mislead the purchaser thereof, in that the label contained the words and figures set forth above, the statement on the label "Prepared Mustard," without any qualifying statement, being false and misleading, as it conveyed the impression that the product was prepared mustard free from artificial coloring matter, whereas it was a mixture of mustard and turmeric, an artificial coloring matter.

On February 22, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2870. Misbranding of cottonseed meal. U. S. v. Fort Smith Cotton Oil Co. Plea of guilty. Fine, $15 and costs. (F. & D. No. 4164. I. S. No. 9118-d.)

On August 6, 1912, the United States Attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Fort Smith Cotton Oil Co., a corporation, engaged in business at Fort Smith, Ark., alleging shipment by said company, in violation of the Food and Drugs Act, on October 17, 1911, from the State of Arkansas into the State of Vermont, of a quantity of cottonseed meal which was misbranded. The product was labeled: (On tag) "S. P. Davis, Little Rock, Arkansas, Cotton Seed Meal Good Luck Brand . . . 100 pounds Gross Guaranteed Analysis: Ammonia 8 to 8½ per cent; Protein 41 to 43 per cent; Nitrogen 6½ to 7 per cent; Oil or Fat 7 to 9 per cent; Crude Fibre, not over 10½ per cent; Made from Decorticated Cotton Seed S. P. Davis, Shipper . . . Little Rock, Arkansas."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following result: Protein, 38.75 per cent. Misbranding of the product was alleged in the information for the reason that the statement on the tag, "Protein 41 per cent," was false and misleading, as it conveyed the impression that this amount of protein—a valuable ingredient—was present in the product, whereas in fact a less amount thereof was present, to wit, 38.75 per cent. Misbranding of the product was alleged for the further reason that it was labeled and branded so as to deceive and mislead the purchaser into the belief that the protein content thereof was 41 per cent, whereas in fact a less amount of this valuable ingredient, to wit, 38.75 per cent, was present.

On August 20, 1912, the defendant company entered a plea of guilty to the information and the court imposed a fine of $15 and costs of $14.65.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2871. Misbranding of cheese. U. S. v. Dell S. Crosby and Julius R. Meyers. Plea of nolo contendere. Fine, $50 and costs. (F. & D. Nos. 4185, 4186. I. S. Nos. 13589-d, 14577-d.)

On June 27, 1913, the United States Attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Dell S. Crosby and Julius R. Meyers, copartners, trading under the firm name of Crosby & Meyers, Cincinnati, Ohio, alleging shipment by said defendants, in violation of the Food and Drugs Act—

(1) On October 26, 1911, from the State of Ohio into the State of West Virginia, of a quantity of cheese which was misbranded. The product was labeled: (On box) "Crosby & Meyers, Cincinnati, Ohio. K 715–139938." (In pencil) "22." (On lid) "Ruffner Bros. Charleston, W. Va."

Examination of the product by the Bureau of Chemistry of this Department showed the following results: Weight of cheese, 20 pounds 13 ounces; marked weight, 22 pounds; weight short, 1 pound 3 ounces, 5.4 per cent. Misbranding of the product was alleged in the information for the following reasons: First, that the package containing the product bore a statement, design, and device regarding it, which said statement, design, and device, to wit, the numerals "22," was false, misleading, and deceptive, in that it represented the article of food to weigh 22 pounds avoirdupois, whereas, in truth and in fact, it did not weigh 22 pounds, and weighed only 20 pounds and 13 ounces; second, that the product was marked and branded as aforesaid, so as to deceive and mislead the purchaser thereof, in that said mark and brand was calculated and intended to convey the impression, and create the belief, in the mind of such purchaser, that the article weighed 22 pounds avoirdupois, whereas, in truth and in fact, it did not weigh 22 pounds avoirdupois and weighed only 20 pounds and 13 ounces; third, that the package containing the product bore on the outside thereof a statement of the contents of such package in terms of weight, as follows, to wit, the numerals "22," meaning thereby 22 pounds, which said statement of the weight of the contents of the package was not correct, and in fact was untrue and false in that the article of food contained within the package did not weigh 22 pounds and did weigh only 20 pounds and 13 ounces.

(2) On February 14, 1912, from the State of Ohio into the State of Tennessee, of a quantity of cheese which was misbranded. This product was labeled: "Crosby & Meyers, Cincinnati, O. H. T. Hackney Co., Jellico, Tenn. 12866–21."

Examination of the product by said Bureau of Chemistry showed the following results: Weight of cheese, 19 pounds 6 ounces; marked weight, 21 pounds; weight short, 1 pound 10 ounces, or 7.7 per cent. Misbranding of the product was alleged in the information for the following reasons: First, that the package containing the product bore a statement, design, and device regarding it, which said statement, design, and device, to wit, the numerals "21," was false, misleading, and deceptive, in that it represented the article of food to weigh 21 pounds avoirdupois, whereas, in truth and in fact, it did not weigh 21 pounds, and weighed only 19 pounds and 6 ounces; second, that the product was marked and branded as aforesaid, so as to deceive and mislead the purchaser thereof, in that said mark and brand was calculated and intended to convey the impression, and create the belief, in the mind of such purchaser, that the article weighed 21 pounds avoirdupois, whereas, in truth and in fact, it did not weigh 21 pounds avoirdupois and weighed only 19 pounds and 6 ounces; third, that the package containing the product bore on the outside thereof a statement of the contents of such package in terms of weight, as follows, to wit, the numerals "21," meaning thereby 21 pounds, which said statement of the weight of the contents of the package was not correct, and in fact was untrue and false in that the article of food contained within the package did not weigh 21 pounds and did weigh only 19 pounds and 6 ounces.

On October 21, 1913, the defendants entered pleas of nolo contendere to the information and the court imposed a fine of $50 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids by refractometer (per cent)	88.09
Nonsugar solids (per cent)	6.71
Sucrose, Clerget (per cent)	73.06
Reducing sugars as invert before inversion (per cent)	8.32
Commercial glucose (factor 163) (per cent)	8.59
Polarizations—	
Direct at 25° C. (°V.)	+88.1
Invert at 25° C. (°V.)	— 7.0
Invert at 87° C. (°V.)	+14.0
Ash (per cent)	.44
Ash, soluble in water (per cent)	.41
Ash, insoluble in water (per cent)	.03
Alkalinity soluble ash (cc N/10 acid per 100 grams)	44.0
Lead precipitate (Winton number)	.61
Preservatives	None.

	Weight.		Shortage.
	Pound.	*Ounces.*	*Per cent.*
1st can	1	6.15	7.71
2d can	1	6.55	6.04
3d can	1	5.58	10.08
Average	1	6.09	7.94

Adulteration of the product was alleged in the information for the reason that a substance, to wit, a product prepared in part from glucose, had been mixed and packed with the article of food so as to reduce, lower, and injuriously affect its quality and strength, and in that a product prepared in part from glucose had been substituted wholly or in part for the sugar butter prepared from cane sugar, which the article, according to the labels thereon contained, purported to have been. Misbranding was alleged for the reason that the product was labeled as set forth above and thereby said defendant held out and represented to purchasers and consumers thereof that the article was a superior brand of cream sugar butter and was a product prepared from cane sugar without the use of glucose, whereas, in truth and in fact, the same consisted of a mixture prepared in part from glucose; and further that the same and each of the cans weighed 1½ pounds or more net weight, whereas, in truth and in fact, the same and each of them weighed less than 1½ pounds, and by reason of the premises hereinbefore set forth, the product and each can thereof was misbranded, in that the said words thereon contained were false and misleading and calculated to deceive and mislead the purchasers and consumers thereof, in that they conveyed the impression and belief to them that the product was a sugar butter prepared without the use of glucose, whereas, in truth and in fact, said glucose formed a substantial part of the article of food; and further conveyed the impression that the same was 1½ pounds in weight, whereas, in truth and in fact, the same weighed less than that amount.

On December 8, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2879. Adulteration and misbranding of sweet nubbins pickles. U. S. v. Amazon Vinegar & Pickling Works. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4236. I. S. No. 17368-d.)

On October 2, 1912, the United States Attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Amazon Vinegar & Pickling

Works, a corporation, Davenport, Iowa, alleging shipment by said company in violation of the Food and Drugs Act, on October 26, 1911, from the State of Iowa into the State of Illinois, of a quantity of so-called sweet nubbins pickles which were adulterated and misbranded. The product was labeled: "Amazon Vinegar and Pickling Works Davenport Iowa. Trade Mark. Guaranteed by Amazon Vinegar & Pickling Works under the Food and Drugs Act, June 30, 1906. Serial No. 8819. Warranted to comply with all state food laws. Sweet Nubbins Pickles."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Sodium benzoate by weight, 0.154 per cent; sodium benzoate by titration, 0.13 per cent. Adulteration of the product was alleged in the information for the reason that a product, to wit, pickles, containing benzoate of soda, an artificial preservative, had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality and strength, and in that said product had been substituted wholly or in part for the pickles prepared without an artificial preservative, which the article purported to be. Misbranding was alleged for the reason that the statement "Pickles," without any qualifying statement as to the artificial preservative present, was false and misleading, as it conveyed the impression that the product was pickles prepared without the use of such artificial preservative, whereas in fact the same had been prepared with and contained a quantity of artificial preservative. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser into the belief that the article was pickles preserved without the use of an artificial preservative, whereas the same was prepared with and contained a quantity of benzoate of soda, an artificial preservative, the presence of which was not declared on the label.

On April 25, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

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label, statement, design, and device was false and misleading, to wit, that said oil purported by said label, statement, design, and device to be pure olive oil, when, in truth and in fact, said oil was not pure olive oil, but was composed in substantial part of cottonseed oil and oils other than olive oil. Misbranding was alleged for the further reason that the packages containing the oil bore a label reading as aforesaid, to wit, that said oil purported by its label to be pure olive oil, but was in fact composed in large part of cottonseed oil and oils other than olive oil, and was in manner and form as aforesaid so labeled and branded as to mislead the purchaser.

During the month of September, 1913, the case having come on for final disposition and no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2876. Misbranding of candy. U. S. v. The Ohio Confection Co. Plea o guilty. Fine, $25 and costs. (F. & D. No. 4208. I. S. No. 1869-d.)

On November 15, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Ohio Confection Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 19, 1911, from the State of Ohio into the State of New York, of a quantity of candy which was misbranded. The product was labeled: "Chocolate Italian Cream Glazed Victor Brand Guaranteed by the Ohio Confection Co., Cleveland, O., under the Food and Drugs Act, June 30, 1906. No. A 5836."

Examination of a sample of the product by the Bureau of Chemistry of this Department indicated that it was of domestic origin manufactured in the United States. Misbranding of the product was alleged in the information for the reason that the statement "Chocolate Italian Glazed Cream" borne on the label was false and misleading, as it conveyed the impression that the product was of foreign origin, whereas, in truth and in fact, it was not of foreign origin, but was manufactured in the United States. Misbranding was alleged for the further reason that the statement "Chocolate Italian Glazed Cream" borne on the label misled or deceived the purchaser into the belief that the product was of foreign origin, whereas, in truth and in fact, it was not of foreign origin, but was manufactured in the United States.

On December 7, 1912, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2877. Adulteration and alleged misbranding of wild cherry and pepsin tonic. U. S. v. The Schuster Co. Plea of guilty to count 1 of information. Fine, $25 and costs. Second count of information nolle prossed. (F. & D. No. 4229. I. S. No. 1617-d.)

On November 15, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Schuster Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 1, 1911, from the State of Ohio into the State of Pennsylvania, of a quantity of wild cherry and pepsin tonic which was adulterated and alleged to have been misbranded. The product was labeled: (Stenciled upon one end of wooden barrel) "Wild Cherry and Pepsin Tonic. Artificially flavored and preserved with 1/10 of 1% Benzoate of Soda." (Other end) "American Wine and Spirit Co., 126 No. 3rd Philadelphia, Pa." (Railroad marks) "D 22428 8 3 11."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Alcohol (per cent by volume)	0.56
Solids by specific gravity (grams per 100 cc)	30.40
Nonsugars (grams per 100 cc)	2.64
Ash (grams per 100 cc)	.056
Soluble alkalinity (cc N/10 acid per 100 cc)	8.8
Total acids as tartaric (grams per 100 cc)	1.45
Soluble P_2O_5	None.
Insoluble P_2O_5	Trace.
Benzoic acid (grams per 100 cc)	.09
Commercial glucose	None.
Color removed by fuller's earth (per cent)	95
Benzaldehyde per liter (grams per 100 cc)	.31
Hydrocyanic acid	None.
Color, coal tar dyes	None.
Reducing sugars, direct (grams per 100 cc)	26.17
Polarization, direct, at 20° C. (°V.)	+22.0
Polarization, invert, 87° C. (°V.)	0
Solids by drying at 70° in vacuum (grams per 100 cc)	30.2
Reducing sugars after inversion, as invert (grams per 100 cc)	27.78

Adulteration of the product was alleged in the first count of the information for the reasons that a product, to wit, an imitation wild cherry and pepsin tonic, artificially colored and flavored, was mixed and packed therewith so as to reduce or lower or injuriously affect its quality and strength, and that an imitation of wild cherry and pepsin tonic, artificially colored and flavored, had been substituted wholly or in part for the genuine wild cherry and pepsin tonic which the article purported to be. Misbranding was alleged in the second count of the information for the reasons that the statement on the label thereof, "Wild Cherry and Pepsin Tonic" was false and misleading, as it conveyed the impression that the product contained genuine wild cherry, whereas in fact the same was a mixture of imitation wild cherry and pepsin, artificially colored and flavored, and that it was labeled and branded so as to deceive the purchaser into the belief that it contained genuine wild cherry, whereas it was prepared in part from an imitation extract of wild cherry, artificially colored and flavored.

On November 23, 1912, the defendant company entered a plea of guilty to the first count of the information and the court imposed a fine of $25 and costs. The second count of the information, charging misbranding, was nolle prossed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2878. Adulteration and misbranding of sugar butter. U. S. v. James E. Carpenter. Plea of guilty. Fine, $25. (F. & D. No. 4235. I. S. No. 16092-d.)

On December 2, 1913, the United States Attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against James E. Carpenter, Utica, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on September 25, 1911, from the State of New York into the State of Indiana, of a quantity of so-called sugar butter which was adulterated and misbranded. The product was labeled: "One and one-half pounds or more net weight. Superior Brand Creamed Sugar Butter Contains 75% Cane Sugar; 15% Compound Syrup, Maple Flavored; 9½% Fondant, Vegetable Color. Made by Maple Product Co., Utica, N. Y. Guaranteed by Maple Product Co. under the Food and Drugs Act, June 30, 1906, Serial No. 28560 A."

2872. Adulteration of frozen egg product. U. S. v. Morton R. Craven (Eastern Provision Co., Consolidated Egg Yelk Co.). Plea of nolo contendere. Fine, $200 and costs. (F. & D. No. 4192. I. S. No. 3150-d.)

At the September, 1912, sessions of the District Court of the United States for the Eastern District of Pennsylvania the grand inquest of the United States in and for said district, acting upon a report by the Secretary of Agriculture, returned an indictment against Morton R. Craven, trading under the name of the Consolidated Egg Yelk Co., Philadelphia, Pa., alleging shipment by said defendant, in violation of the Food and Drugs Act, on October 31, 1911, from the State of Pennsylvania into the State of New York, of a quantity of frozen egg product which was adulterated. The product was not labeled.

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: After calculating the results to moisture, fat free basis, cc of N/100 iodin solution reduced per 15 grams of sample, 185.3; milligrams of ammonia per 100 grams of eggs (ZnO method), 120.5; milligrams of ammonia per 100 grams of eggs (Folin's titration method), 74.6. Bacteriological examination of a sample of the product by said Bureau of Chemistry showed the following results: 160,000,000 organisms per gram, plain agar, after 4 days at 25° C.; 160,000,000 organisms per gram, plain agar, after 4 days at 25° C.; 160,000,000 organisms per gram, plain agar, after 4 days at 37° C.; 190,000,000 organisms per gram, plain agar, after 4 days at 37° C.; 10,000,000 *B. coli* group per gram; 10,000,000 streptococci per gram. It was found that the product must have consisted in part of spot eggs, as three embryos and one piece of mold were found; odor sour. The ten larvæ found indicated a filthy condition and careless handling. Adulteration of the product was charged in the indictment for the reason that it consisted in part of a filthy, decomposed, and putrid animal and vegetable substance.

On June 9, 1913, the defendant entered a plea of nolo contendere to the indictment and the court imposed a fine of $200 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2873. Adulteration and misbranding of olive oil. U. S. v. One Case of Oil. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 4194. S. No. 1434.)

On June 21, 1912, the United States Attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of one case of oil remaining unsold in the original unbroken packages and in the possession of Joseph Luongo, Providence, R. I., alleging that the product had been shipped on or about March 29, 1912, from the State of New York into the State of Rhode Island, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Tripoli Brand Trade Mark Olio Puro Italiano Di Olivi."

Adulteration of the product was alleged in the libel for the reason that it was labeled as set forth above and purported by said label to be pure olive oil, but that a certain substance, to wit, cottonseed oil, had been substituted in part in said oil for pure olive oil. Misbranding was alleged for the reason that the packages containing the oil bore a label, statement, design, and device reading as above set forth, which label, statement, design, and device was false and misleading, to wit, that said oil purported by said label, statement, design, and device to be pure olive oil, when, in truth and in fact, said oil was not pure olive oil, but was composed in substantial part of cottonseed oil and oils other than olive oil. Misbranding was alleged for the further reason that the packages containing the oil bore a label reading as aforesaid, to wit, that said oil purported by its label to be pure olive oil, but was in fact composed in large part of cottonseed oil and oils other than olive oil, and was in manner and form as aforesaid so labeled and branded as to mislead the purchaser.

During the month of September, 1913, the case having come on for final disposition and no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2874. Adulteration and misbranding of olive oil. U. S. v. One Case of Oil. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 4195. S. No. 1434.)

On June 21, 1912, the United States Attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of one case of oil remaining unsold in the original unbroken packages and in the possession of Raffaele Petternte, Providence, R. I., alleging that the product had been shipped on or about March 11, 1912, from the State of New York into the State of Rhode Island, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Tripoli Brand Trade Mark Olio Puro Italiano Di Olivi."

Adulteration of the product was alleged in the libel for the reason that it was labeled as set forth above and purported by said label to be pure olive oil, but that a certain substance, to wit, cottonseed oil, had been substituted in part in said oil for pure olive oil. Misbranding was alleged for the reason that the packages containing the oil bore a label, statement, design, and device reading as above set forth, which label, statement, design, and device was false and misleading, to wit, that said oil purported by said label, statement, design, and device to be pure olive oil, when, in truth and in fact, said oil was not pure olive oil, but was composed in substantial part of cottonseed oil and oils other than olive oil. Misbranding was alleged for the further reason that the packages containing the oil bore a label reading as aforesaid, to wit, that said oil purported by its label to be pure olive oil, but was in fact composed in large part of cottonseed oil and oils other than olive oil, and was in manner and form as aforesaid so labeled and branded as to mislead the purchaser.

During the month of September, 1913, the case having come on for final disposition and no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2875. Adulteration and misbranding of olive oil. U. S. v. 2 Cases of Oil. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 4196. S. No. 1434.)

On June 21, 1912, the United States Attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of two cases of oil remaining unsold in the original unbroken packages and in the possession of Luigi Amitrano, Providence, R. I., alleging that the product had been shipped on or about March 11, 1912, from the State of New York into the State of Rhode Island, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Tripoli Brand Trade Mark Olio Puro Italiano Di Olivi."

Adulteration of the product was alleged in the libel for the reason that it was labeled as set forth above and purported by said label to be pure olive oil, but that a certain substance, to wit, cottonseed oil, had been substituted in part in said oil for pure olive oil. Misbranding was alleged for the reason that the packages containing the oil bore a label, statement, design, and device reading as above set forth, which

label, statement, design, and device was false and misleading, to wit, that said oil purported by said label, statement, design, and device to be pure olive oil, when, in truth and in fact, said oil was not pure olive oil, but was composed in substantial part of cottonseed oil and oils other than olive oil. Misbranding was alleged for the further reason that the packages containing the oil bore a label reading as aforesaid, to wit, that said oil purported by its label to be pure olive oil, but was in fact composed in large part of cottonseed oil and oils other than olive oil, and was in manner and form as aforesaid so labeled and branded as to mislead the purchaser.

During the month of September, 1913, the case having come on for final disposition and no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2876. Misbranding of candy. U. S. v. The Ohio Confection Co. Plea o guilty. Fine, $25 and costs. (F. & D. No. 4208. I. S. No. 1869-d.)

On November 15, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Ohio Confection Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 19, 1911, from the State of Ohio into the State of New York, of a quantity of candy which was misbranded. The product was labeled: "Chocolate Italian Cream Glazed Victor Brand Guaranteed by the Ohio Confection Co., Cleveland, O., under the Food and Drugs Act, June 30, 1906. No. A 5836."

Examination of a sample of the product by the Bureau of Chemistry of this Department indicated that it was of domestic origin manufactured in the United States. Misbranding of the product was alleged in the information for the reason that the statement "Chocolate Italian Glazed Cream" borne on the label was false and misleading, as it conveyed the impression that the product was of foreign origin, whereas, in truth and in fact, it was not of foreign origin, but was manufactured in the United States. Misbranding was alleged for the further reason that the statement "Chocolate Italian Glazed Cream" borne on the label misled or deceived the purchaser into the belief that the product was of foreign origin, whereas, in truth and in fact, it was not of foreign origin, but was manufactured in the United States.

On December 7, 1912, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2877. Adulteration and alleged misbranding of wild cherry and pepsin tonic. U. S. v. The Schuster Co. Plea of guilty to count 1 of information. Fine, $25 and costs. Second count of information nolle prossed. (F. & D. No. 4229. I. S. No. 1617-d.)

On November 15, 1912, the United States Attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Schuster Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 1, 1911, from the State of Ohio into the State of Pennsylvania, of a quantity of wild cherry and pepsin tonic which was adulterated and alleged to have been misbranded. The product was labeled: (Stenciled upon one end of wooden barrel) "Wild Cherry and Pepsin Tonic. Artificially flavored and preserved with 1/10 of 1% Benzoate of Soda." (Other end) "American Wine and Spirit Co., 126 No. 3rd Philadelphia, Pa." (Railroad marks) "D 22428 8 3 11."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Alcohol (per cent by volume)	0.56
Solids by specific gravity (grams per 100 cc)	30.40
Nonsugars (grams per 100 cc)	2.64
Ash (grams per 100 cc)	.056
Soluble alkalinity (cc N/10 acid per 100 cc)	8.8
Total acids as tartaric (grams per 100 cc)	1.45
Soluble P_2O_5	None.
Insoluble P_2O_5	Trace.
Benzoic acid (grams per 100 cc)	.09
Commercial glucose	None.
Color removed by fuller's earth (per cent)	95
Benzaldehyde per liter (grams per 100 cc)	.31
Hydrocyanic acid	None.
Color, coal tar dyes	None.
Reducing sugars, direct (grams per 100 cc)	26.17
Polarization, direct, at 20° C. (°V.)	+22.0
Polarization, invert, 87° C. (°V.)	0
Solids by drying at 70° in vacuum (grams per 100 cc)	30.2
Reducing sugars after inversion, as invert (grams per 100 cc)	27.78

Adulteration of the product was alleged in the first count of the information for the reasons that a product, to wit, an imitation wild cherry and pepsin tonic, artificially colored and flavored, was mixed and packed therewith so as to reduce or lower or injuriously affect its quality and strength, and that an imitation of wild cherry and pepsin tonic, artificially colored and flavored, had been substituted wholly or in part for the genuine wild cherry and pepsin tonic which the article purported to be. Misbranding was alleged in the second count of the information for the reasons that the statement on the label thereof, "Wild Cherry and Pepsin Tonic" was false and misleading, as it conveyed the impression that the product contained genuine wild cherry, whereas in fact the same was a mixture of imitation wild cherry and pepsin, artificially colored and flavored, and that it was labeled and branded so as to deceive the purchaser into the belief that it contained genuine wild cherry, whereas it was prepared in part from an imitation extract of wild cherry, artificially colored and flavored.

On November 23, 1912, the defendant company entered a plea of guilty to the first count of the information and the court imposed a fine of $25 and costs. The second count of the information, charging misbranding, was nolle prossed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2878. Adulteration and misbranding of sugar butter. U. S. v. James E. Carpenter. Plea of guilty. Fine, $25. (F. & D. No. 4235. I. S. No. 16092-d.)

On December 2, 1913, the United States Attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against James E. Carpenter, Utica, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on September 25, 1911, from the State of New York into the State of Indiana, of a quantity of so-called sugar butter which was adulterated and misbranded. The product was labeled: "One and one-half pounds or more net weight. Superior Brand Creamed Sugar Butter Contains 75% Cane Sugar; 15% Compound Syrup, Maple Flavored; 9½% Fondant, Vegetable Color. Made by Maple Product Co., Utica, N. Y. Guaranteed by Maple Product Co. under the Food and Drugs Act, June 30, 1906, Serial No. 28560 A."

2872. Adulteration of frozen egg product. U. S. v. Morton R. Craven (Eastern Provision Co., Consolidated Egg Yelk Co.). Plea of nolo contendere. Fine, $200 and costs. (F. & D. No. 4192. I. S. No. 3150-d.)

At the September, 1912, sessions of the District Court of the United States for the Eastern District of Pennsylvania the grand inquest of the United States in and for said district, acting upon a report by the Secretary of Agriculture, returned an indictment against Morton R. Craven, trading under the name of the Consolidated Egg Yelk Co., Philadelphia, Pa., alleging shipment by said defendant, in violation of the Food and Drugs Act, on October 31, 1911, from the State of Pennsylvania into the State of New York, of a quantity of frozen egg product which was adulterated. The product was not labeled.

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: After calculating the results to moisture, fat free basis, cc of N/100 iodin solution reduced per 15 grams of sample, 185.3; milligrams of ammonia per 100 grams of eggs (ZnO method), 120.5; milligrams of ammonia per 100 grams of eggs (Folin's titration method), 74.6. Bacteriological examination of a sample of the product by said Bureau of Chemistry showed the following results: 160,000,000 organisms per gram, plain agar, after 4 days at 25° C.; 160,000,000 organisms per gram, plain agar, after 4 days at 25° C.; 160,000,000 organisms per gram, plain agar, after 4 days at 37° C.; 190,000,000 organisms per gram, plain agar, after 4 days at 37° C.; 10,000,000 *B. coli* group per gram; 10,000,000 streptococci per gram. It was found that the product must have consisted in part of spot eggs, as three embryos and one piece of mold were found; odor sour. The ten larvæ found indicated a filthy condition and careless handling. Adulteration of the product was charged in the indictment for the reason that it consisted in part of a filthy, decomposed, and putrid animal and vegetable substance.

On June 9, 1913, the defendant entered a plea of nolo contendere to the indictment and the court imposed a fine of $200 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2873. Adulteration and misbranding of olive oil. U. S. v. One Case of Oil. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 4194. S. No. 1434.)

On June 21, 1912, the United States Attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of one case of oil remaining unsold in the original unbroken packages and in the possession of Joseph Luongo, Providence, R. I., alleging that the product had been shipped on or about March 29, 1912, from the State of New York into the State of Rhode Island, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Tripoli Brand Trade Mark Olio Puro Italiano Di Olivi."

Adulteration of the product was alleged in the libel for the reason that it was labeled as set forth above and purported by said label to be pure olive oil, but that a certain substance, to wit, cottonseed oil, had been substituted in part in said oil for pure olive oil. Misbranding was alleged for the reason that the packages containing the oil bore a label, statement, design, and device reading as above set forth, which label, statement, design, and device was false and misleading, to wit, that said oil purported by said label, statement, design, and device to be pure olive oil, when, in truth and in fact, said oil was not pure olive oil, but was composed in substantial part of cottonseed oil and oils other than olive oil. Misbranding was alleged for the further reason that the packages containing the oil bore a label reading as aforesaid, to wit, that said oil purported by its label to be pure olive oil, but was in fact composed in large part of cottonseed oil and oils other than olive oil, and was in manner and form as aforesaid so labeled and branded as to mislead the purchaser.

During the month of September, 1913, the case having come on for final disposition and no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2874. Adulteration and misbranding of olive oil. U. S. v. One Case of Oil. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 4195. S. No. 1434.)

On June 21, 1912, the United States Attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of one case of oil remaining unsold in the original unbroken packages and in the possession of Raffaele Petternte, Providence, R. I., alleging that the product had been shipped on or about March 11, 1912, from the State of New York into the State of Rhode Island, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Tripoli Brand Trade Mark Olio Puro Italiano Di Olivi."

Adulteration of the product was alleged in the libel for the reason that it was labeled as set forth above and purported by said label to be pure olive oil, but that a certain substance, to wit, cottonseed oil, had been substituted in part in said oil for pure olive oil. Misbranding was alleged for the reason that the packages containing the oil bore a label, statement, design, and device reading as above set forth, which label, statement, design, and device was false and misleading, to wit, that said oil purported by said label, statement, design, and device to be pure olive oil, when, in truth and in fact, said oil was not pure olive oil, but was composed in substantial part of cottonseed oil and oils other than olive oil. Misbranding was alleged for the further reason that the packages containing the oil bore a label reading as aforesaid, to wit, that said oil purported by its label to be pure olive oil, but was in fact composed in large part of cottonseed oil and oils other than olive oil, and was in manner and form as aforesaid so labeled and branded as to mislead the purchaser.

During the month of September, 1913, the case having come on for final disposition and no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2875. Adulteration and misbranding of olive oil. U. S. v. 2 Cases of Oil. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 4196. S. No. 1434.)

On June 21, 1912, the United States Attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of two cases of oil remaining unsold in the original unbroken packages and in the possession of Luigi Amitrano, Providence, R. I., alleging that the product had been shipped on or about March 11, 1912, from the State of New York into the State of Rhode Island, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Tripoli Brand Trade Mark Olio Puro Italiano Di Olivi."

Adulteration of the product was alleged in the libel for the reason that it was labeled as set forth above and purported by said label to be pure olive oil, but that a certain substance, to wit, cottonseed oil, had been substituted in part in said oil for pure olive oil. Misbranding was alleged for the reason that the packages containing the oil bore a label, statement, design, and device reading as above set forth, which

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Total solids (per cent)	13.36
Remaining water (per cent)	5.94
Salt (per cent)	16.64
Fat (per cent)	19.38
Crude fiber (per cent)	7.99
Nitrogen (per cent)	3.59
Nitrogen to salt, fat, and water free basis (per cent)	6.18
Protein, air-dry (per cent)	22.43
Protein (salt, fat, and water free basis) (per cent)	38.62
Turmeric (per cent), approximately	.75
Crude fiber (per cent)	13.29

Adulteration of the product was alleged in the information for the reason that it was an inferior mustard and was colored with turmeric, an artificial coloring, in a manner whereby the appearance of a superior grade of mustard was simulated and the inferiority of the article was concealed, as shown by the analysis set forth above. Misbranding was alleged for the reason that the product was labeled or branded so as to deceive or mislead the purchaser thereof, in that the label contained the words and figures set forth above, the statement on the label "Prepared Mustard," without any qualifying statement, being false and misleading, as it conveyed the impression that the product was prepared mustard free from artificial coloring matter, whereas it was a mixture of mustard and turmeric, an artificial coloring matter.

On February 22, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 9, 1914.*

2870. Misbranding of cottonseed meal. U. S. v. Fort Smith Cotton Oil Co. Plea of guilty. Fine, $15 and costs. (F. & D. No. 4164. I. S. No. 9118-d.)

On August 6, 1912, the United States Attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Fort Smith Cotton Oil Co., a corporation, engaged in business at Fort Smith, Ark., alleging shipment by said company, in violation of the Food and Drugs Act, on October 17, 1911, from the State of Arkansas into the State of Vermont, of a quantity of cottonseed meal which was misbranded. The product was labeled: (On tag) "S. P. Davis, Little Rock, Arkansas, Cotton Seed Meal Good Luck Brand . . . 100 pounds Gross Guaranteed Analysis: Ammonia 8 to 8½ per cent; Protein 41 to 43 per cent; Nitrogen 6½ to 7 per cent; Oil or Fat 7 to 9 per cent; Crude Fibre, not over 10½ per cent; Made from Decorticated Cotton Seed S. P. Davis, Shipper . . . Little Rock, Arkansas."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following result: Protein, 38.75 per cent. Misbranding of the product was alleged in the information for the reason that the statement on the tag, "Protein 41 per cent," was false and misleading, as it conveyed the impression that this amount of protein—a valuable ingredient—was present in the product, whereas in fact a less amount thereof was present, to wit, 38.75 per cent. Misbranding of the product was alleged for the further reason that it was labeled and branded so as to deceive and mislead the purchaser into the belief that the protein content thereof was 41 per cent, whereas in fact a less amount of this valuable ingredient, to wit, 38.75 per cent, was present.

On August 20, 1912, the defendant company entered a plea of guilty to the information and the court imposed a fine of $15 and costs of $14.65.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2871. Misbranding of cheese. U. S. v. Dell S. Crosby and Julius R. Meyers. Plea of nolo contendere. Fine, $50 and costs. (F. & D. Nos. 4185, 4186. I. S. Nos. 13589-d, 14577-d.)

On June 27, 1913, the United States Attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Dell S. Crosby and Julius R. Meyers, copartners, trading under the firm name of Crosby & Meyers, Cincinnati, Ohio, alleging shipment by said defendants, in violation of the Food and Drugs Act—

(1) On October 26, 1911, from the State of Ohio into the State of West Virginia, of a quantity of cheese which was misbranded. The product was labeled: (On box) "Crosby & Meyers, Cincinnati, Ohio. K 715–139938." (In pencil) "22." (On lid) "Ruffner Bros. Charleston, W. Va."

Examination of the product by the Bureau of Chemistry of this Department showed the following results: Weight of cheese, 20 pounds 13 ounces; marked weight, 22 pounds; weight short, 1 pound 3 ounces, 5.4 per cent. Misbranding of the product was alleged in the information for the following reasons: First, that the package containing the product bore a statement, design, and device regarding it, which said statement, design, and device, to wit, the numerals "22," was false, misleading, and deceptive, in that it represented the article of food to weigh 22 pounds avoirdupois, whereas, in truth and in fact, it did not weigh 22 pounds, and weighed only 20 pounds and 13 ounces; second, that the product was marked and branded as aforesaid, so as to deceive and mislead the purchaser thereof, in that said mark and brand was calculated and intended to convey the impression, and create the belief, in the mind of such purchaser, that the article weighed 22 pounds avoirdupois, whereas, in truth and in fact, it did not weigh 22 pounds avoirdupois and weighed only 20 pounds and 13 ounces; third, that the package containing the product bore on the outside thereof a statement of the contents of such package in terms of weight, as follows, to wit, the numerals "22," meaning thereby 22 pounds, which said statement of the weight of the contents of the package was not correct, and in fact was untrue and false in that the article of food contained within the package did not weigh 22 pounds and did weigh only 20 pounds and 13 ounces.

(2) On February 14, 1912, from the State of Ohio into the State of Tennessee, of a quantity of cheese which was misbranded. This product was labeled: "Crosby & Meyers, Cincinnati, O. H. T. Hackney Co., Jellico, Tenn. 12866–21."

Examination of the product by said Bureau of Chemistry showed the following results: Weight of cheese, 19 pounds 6 ounces; marked weight, 21 pounds; weight short, 1 pound 10 ounces, or 7.7 per cent. Misbranding of the product was alleged in the information for the following reasons: First, that the package containing the product bore a statement, design, and device regarding it, which said statement, design, and device, to wit, the numerals "21," was false, misleading, and deceptive, in that it represented the article of food to weigh 21 pounds avoirdupois, whereas, in truth and in fact, it did not weigh 21 pounds, and weighed only 19 pounds and 6 ounces; second, that the product was marked and branded as aforesaid, so as to deceive and mislead the purchaser thereof, in that said mark and brand was calculated and intended to convey the impression, and create the belief, in the mind of such purchaser, that the article weighed 21 pounds avoirdupois, whereas, in truth and in fact, it did not weigh 21 pounds avoirdupois and weighed only 19 pounds and 6 ounces; third, that the package containing the product bore on the outside thereof a statement of the contents of such package in terms of weight, as follows, to wit, the numerals "21," meaning thereby 21 pounds, which said statement of the weight of the contents of the package was not correct, and in fact was untrue and false in that the article of food contained within the package did not weigh 21 pounds and did weigh only 19 pounds and 6 ounces.

On October 21, 1913, the defendants entered pleas of nolo contendere to the information and the court imposed a fine of $50 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results:

Solids by refractometer (per cent)	88.09
Nonsugar solids (per cent)	6.71
Sucrose, Clerget (per cent)	73.06
Reducing sugars as invert before inversion (per cent)	8.32
Commercial glucose (factor 163) (per cent)	8.59
Polarizations—	
Direct at 25° C. (°V.)	+88.1
Invert at 25° C. (°V.)	— 7.0
Invert at 87° C. (°V.)	+14.0
Ash (per cent)	.44
Ash, soluble in water (per cent)	.41
Ash, insoluble in water (per cent)	.03
Alkalinity soluble ash (cc N/10 acid per 100 grams)	44.0
Lead precipitate (Winton number)	.61
Preservatives	None.

	Weight.		Shortage.
	Pound.	*Ounces.*	*Per cent.*
1st can	1	6.15	7.71
2d can	1	6.55	6.04
3d can	1	5.58	10.08
Average	1	6.09	7.94

Adulteration of the product was alleged in the information for the reason that a substance, to wit, a product prepared in part from glucose, had been mixed and packed with the article of food so as to reduce, lower, and injuriously affect its quality and strength, and in that a product prepared in part from glucose had been substituted wholly or in part for the sugar butter prepared from cane sugar, which the article, according to the labels thereon contained, purported to have been. Misbranding was alleged for the reason that the product was labeled as set forth above and thereby said defendant held out and represented to purchasers and consumers thereof that the article was a superior brand of cream sugar butter and was a product prepared from cane sugar without the use of glucose, whereas, in truth and in fact, the same consisted of a mixture prepared in part from glucose; and further that the same and each of the cans weighed 1½ pounds or more net weight, whereas, in truth and in fact, the same and each of them weighed less than 1½ pounds, and by reason of the premises hereinbefore set forth, the product and each can thereof was misbranded, in that the said words thereon contained were false and misleading and calculated to deceive and mislead the purchasers and consumers thereof, in that they conveyed the impression and belief to them that the product was a sugar butter prepared without the use of glucose, whereas, in truth and in fact, said glucose formed a substantial part of the article of food; and further conveyed the impression that the same was 1½ pounds in weight, whereas, in truth and in fact, the same weighed less than that amount.

On December 8, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2879. Adulteration and misbranding of sweet nubbins pickles. U. S. v. Amazon Vinegar & Pickling Works. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4236. I. S. No. 17368-d.)

On October 2, 1912, the United States Attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Amazon Vinegar & Pickling

Works, a corporation, Davenport, Iowa, alleging shipment by said company in violation of the Food and Drugs Act, on October 26, 1911, from the State of Iowa into the State of Illinois, of a quantity of so-called sweet nubbins pickles which were adulterated and misbranded. The product was labeled: "Amazon Vinegar and Pickling Works Davenport Iowa. Trade Mark. Guaranteed by Amazon Vinegar & Pickling Works under the Food and Drugs Act, June 30, 1906. Serial No. 8819. Warranted to comply with all state food laws. Sweet Nubbins Pickles."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Sodium benzoate by weight, 0.154 per cent; sodium benzoate by titration, 0.13 per cent. Adulteration of the product was alleged in the information for the reason that a product, to wit, pickles, containing benzoate of soda, an artificial preservative, had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality and strength, and in that said product had been substituted wholly or in part for the pickles prepared without an artificial preservative, which the article purported to be. Misbranding was alleged for the reason that the statement "Pickles," without any qualifying statement as to the artificial preservative present, was false and misleading, as it conveyed the impression that the product was pickles prepared without the use of such artificial preservative, whereas in fact the same had been prepared with and contained a quantity of artificial preservative. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser into the belief that the article was pickles preserved without the use of an artificial preservative, whereas the same was prepared with and contained a quantity of benzoate of soda, an artificial preservative, the presence of which was not declared on the label.

On April 25, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

S. R. A.—Chem. 3. Issued May 12, 1914.

U. S. DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.
C. L. ALSBERG, Chief of Bureau.

SERVICE AND REGULATORY ANNOUNCEMENT.[1]

MARCH, 1914.

GENERAL INFORMATION.

3. Information regarding the products of individual firms can be given out only through notices of judgment.

The Bureau of Chemistry receives frequent requests for information regarding the quality of food and drug products manufactured by individual firms. The regulations of the department do not permit information of this kind to be given out unless such products have been made the subjects of court decisions. In such cases all necessary information is published in the form of notices of judgment which are intended for free distribution to all persons especially concerned.

Correspondents also frequently ask the bureau for the names of brands of products which are known to conform with the requirements of the law. Such information can not be given out by the bureau, for the reason that it would undoubtedly result in unfair advertisement of the products of certain firms at the expense of others which might be equally meritorious but which have not been examined by the bureau.

4. Warning to users of turpentine for medicinal or veterinary purposes.

As the result of an investigation by the Department of Agriculture, it has been found that the adulteration of turpentine with mineral oils is so widespread that druggists and manufacturers of pharmaceutical products and grocers' sundries used for medicinal and veterinary purposes should exercise special caution in purchasing turpentine. Those who use turpentine for this purpose, unless they are careful, run the risk of obtaining an adulterated article and unnecessarily laying themselves open to prosecution under the Food and Drugs Act.

It has been found, moreover, that the turpentine sold to the country stores especially, as usually put out by dealers and manufacturers of grocers' sundries, is often short in volume by as much as 5 or 10 per cent. Dealers, therefore, should also protect themselves through a guaranty from the wholesaler that the bottle contains the full declared volume.

In all cases, druggists, manufacturers, and wholesale grocers should satisfy themselves that the turpentine is free from adulteration and is true to marked volume.

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication will be issued monthly by the Bureau of Chemistry. It approximately covers the month for which it is dated, and each month's issue is expected to appear during the succeeding month. Free distribution will be limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

5. Changes among officials in charge.

H. M. Loomis, formerly a member of the Board of Food and Drug Inspection, has been designated as Chemist in Charge of Food Control, with headquarters in Washington.

A. L. Winton, formerly chief of the Chicago laboratory, has been transferred to Washington and placed in charge of food research.

Appointed chiefs of branch laboratories: Chicago laboratory, G. W. Hoover, formerly assistant chief of the Division of Drugs in Washington; Washington Food Inspection Laboratory, W. J. McGee, formerly chief of the New Orleans laboratory; New Orleans laboratory, F. W. Liepsner, formerly chief of the Kansas City laboratory; St. Paul laboratory, E. H. Goodnow, formerly of the Food Inspection Division in Washington; San Francisco laboratory, R. W. Hilts, formerly chief of the Seattle laboratory; Seattle laboratory, A. L. Knisely, formerly chief of the Portland laboratory.

Transferred to Washington: R. W. Balcom and S. H. Ross, formerly chiefs of the Nashville and Omaha laboratories, respectively.

6. Transfers of food and drug inspectors.

W. H. Jenkins, from Philadelphia to 216 Post Office Building, Detroit; O. R, Sudler, from Detroit to United States Appraiser's Stores, Philadelphia; Louis Marks. from Nashville to customhouse, Savannah; C. T. Smith, from Atlanta to customhouse, Nashville; J. F. Earnshaw, from Baltimore to Washington.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—QUOTED FROM CORRESPONDENCE.[1]

16. The labeling of macaroon paste.

DEAR SIR: The bureau has held, and this contention has been sustained in court, that the name macaroon, when used without qualification, refers to a product made from ground almond, white of egg, and sugar. It therefore follows that a product labeled "macaroon paste," the basis of which is other than almond, should clearly show upon the label what kind of macaroon paste the product actually is, as, for instance, "cocoanut macaroon paste."

The bureau also considers that the designation "macaroon paste" for a product consisting largely of other materials than those normal to macaroon paste, and flavored in imitation of almonds, would not be proper even if the added ingredients were mentioned on the label. Such a product should be designated as "imitation macaroon paste."

Respectfully, C. L. ALSBERG, *Chief.*

17. The use of tartaric acid in the preparation of jelly.

DEAR SIR: It is the opinion of the bureau that there is no objection to the use of tartaric acid in the preparation of jelly, provided it is not used to conceal inferiority and its presence is declared upon the label. It is not sufficient, in the opinion of the bureau, to place the statement upon the label that the product contains added fruit acid, but the presence of the added tartaric acid should be plainly declared upon the label in type not smaller than 8-point (brevier) caps.

Your attention is called to the fact in this connection, however, that commercial tartaric acid sometimes contains lead, which is an impurity introduced into it in the

[1] It should be understood that the opinions expressed in these letters are offered in an advisory capacity as representing the attitude of the bureau in the light of its present knowledge and of the facts presented by the correspondents. In order to avoid the publication of unnecessary matter, those portions of the correspondence which do not bear on the subject in question have been omitted.

course of manufacture. Lead is of course an injurious substance, and the use of an acid containing lead in a food product would not be proper.

Respectfully, C. L. Alsberg, *Chief.*

18. The labeling of "soaked peas."

The bureau has received a number of inquiries regarding the form of label which should be used on the product heretofore designated as "soaked peas." This question was fully answered by the Board of Food and Drug Inspection in the letter quoted below:

Dear Sir: We have been endeavoring to secure as much information as possible, both from our experts and from the canning trade, as to the proper labeling of this product. From the information thus gathered it appears that the proper designation for this product is "soaked dried peas" or "soaked ripe peas" as the case may be. The Board of Food and Drug Inspection is of the opinion that the terms "dried peas" and "ripe peas" are not proper designations for these products, inasmuch as they are the names of other definite substances. Our inquiry does not show that there is any particular objection in the trade to the term "soaked peas." It would appear that the term "soaked peas" is a shortened expression of the legend "soaked dried peas" or "soaked ripe peas" which has naturally grown up among the manufacturers and which from long usage has come to represent, to both the consumer and the trade, a definite food product. The board is of the further opinion, however, that no objections could be raised to the designation of these products as "peas, prepared from dried peas," or "peas, prepared from ripe peas," as the case may be, provided the modifying phrase "prepared from dried (or ripe) peas" be plainly stated in immediate connection with the word "peas," the whole phrase thus forming the name of the product. We understand that the trade recognizes a difference between dried peas and ripe peas, the dried peas being the peas gathered in the succulent state and dried and the ripe peas being those which have ripened on the vine.

Respectfully, R. E. Doolittle,

Acting Chairman, Board of Food and Drug Inspection.

19. The use of the term "stringless beans."

Dear Sir: Your inquiry regarding the use of the expression "stringless beans" has been taken up with the Bureau of Plant Industry.

We are informed that the term "stringless" applies more particularly to a condition of growth than to a variety of beans, although there is a great diversity among varieties in respect to stringiness. If the so-called stringless varieties are processed while they are in the proper stage of development, the term "stringless" could be applied very properly to the stock so handled. There is bound to be, however, a greater or less percentage of the product of any variety which will carry more or less fibrous matter (strings). In other words, many of the better sorts of beans, if picked and processed when young enough, will give a brand of goods which could properly be designated "stringless." If the same varieties are allowed to come to a later stage of development and approach more nearly to maturity, they will become tough and fibrous.

It is the opinion of the bureau that the term "stringless" may properly be used for a high-grade brand of canned beans, regardless of the name of the variety from which the stock was derived, provided they are canned at the proper stage of development, as indicated above.

Respectfully, C. L. Alsberg, *Chief.*

20. The use of the terms "Lemon Cling" and "Yellow Cling" on canned peaches.

Dear Sir: Replying to your request for information regarding the use of the terms "Lemon Cling" and "Yellow Cling" on canned peaches, you are informed that a declaration of the varietal name is not required upon the label. Where such a name is given, however, it must be the true name of the variety.

The Lemon Cling is a well-known variety of peach which is somewhat widely grown in California and is highly esteemed for canning. If the peaches in question, which are labeled "Lemon Cling," are not of that variety, it would be obviously improper to so label them. Should the words "Yellow Cling" be substituted on the label for "Lemon Cling," the product would be understood to belong to any one of the yellow clingstone varieties. We are informed that practically all of the peaches which are commercially canned in California are yellow-fleshed clings.

Respectfully, C. L. ALSBERG, *Chief.*

21. The use of the term "caviar."

The letter quoted below was written in reply to a request for information concerning the proper labeling of caviar made from whitefish to which a harmless vegetable dye had been added.

DEAR SIR: Your question has been taken up at some length with the Commissioner of Fisheries. The bureau is informed that the term "caviar" can properly be applied to any kind of fish eggs prepared after a special method. The eggs first prepared and most extensively used were those of the sturgeon, and to many people the term "caviar" is synonymous with "sturgeon caviar." In view of this fact and of other considerations, it is believed that the name of the particular fish from whose eggs caviar is made should appear on the label. In the case in point an appropriate label would be "whitefish caviar." This bureau will make no objection to the use of the term "caviar" on a product prepared according to the usual method and made from the roe of whitefish, provided the name of the fish is given in conjunction with the word caviar.

There is no objection to the use of a harmless coloring matter in a product of this kind, provided a clear declaration of the presence of added color is made on the label. It should, of course, be understood that the product should not be labeled in such a way as to lead the purchaser to believe it to be an imported product.

Respectfully, C. L. ALSBERG, *Chief.*

22. The sale of eggs preserved in water glass.

The bureau receives numerous inquiries regarding the propriety of selling eggs which have been preserved in water glass. The position of the bureau is indicated in the letter quoted below:

DEAR SIR: The bureau sees no objection to the sale of eggs preserved in water glass, provided they are labeled in such a manner as to indicate that they are not strictly fresh eggs, but are preserved.

Respectfully, C. L. ALSBERG, *Chief.*

23. Misuse of the term "egg powder."

DEAR SIR: Receipt is acknowledged of your letter of March 3, 1914, in which you request certain information concerning the application of the Food and Drugs Act to an egg powder composed of the following ingredients: Sodium bicarbonate, tartaric acid, cream of tartar, turmeric, ground rice.

Referring to your inquiry as to whether or not a product prepared by the above formula may be guaranteed under the Food and Drugs Act, you are informed that a guaranty is in no sense a guaranty by the Government, and the appearance of a guaranty legend upon a food product does not in any way indicate that the Government has approved of the character of the product.

Concerning the labeling of the above product as an egg powder, you are informed that the label "egg powder" should not appear upon a product which contains no eggs. Furthermore, a product which is labeled to indicate that it will take the place of eggs should possess the properties of eggs, both in respect to food value and baking qualities.

The above product does not possess these qualities and would not be properly labeled as an egg powder or an egg substitute. It is, in fact, a baking powder and should be so labeled.

Respectfully, C. L. Alsberg, *Chief.*

24. Butter adulterated with milk.

Frequent inquiries are received regarding the status under the Food and Drugs Act of a product made by churning together or merging milk and butter and intended for use in place of butter. The letter quoted below covers this product:

Dear Sir: A product made by churning together 1 pound of butter and 1 pint of milk would contain about 50 per cent of water and only about 42 per cent of fat. It would, therefore, be classed by the Department of Agriculture, in enforcing the Food and Drugs Act, as adulterated butter, and I think would be so classed by all State food officials. * * *

Respectfully, R. L. Emerson, *Assistant Chief.*

25. The bearing of Food Inspection Decision No. 152 on the distillation of brandy from pomace and other wine by-products.

Dear Sir: On November 6, 1913, you appeared to discuss the bearing of Food Inspection Decision No. 152 on the distillation of brandy from pomace and other wine by-products. This matter has been very carefully considered by this bureau in consultation with the Bureau of Internal Revenue of the Treasury Department. The Commissioner of Internal Revenue advises that the distillation of pomace brandy from the liquid obtained by the fermentation of sugar added to the residue (cheese, marc, pomace) of a wine fermentation is prohibited. He advises further that his office does not permit the distillation of a wine corrected with sugar or the distillation of the residue of such a wine.

It follows, therefore, that pomace brandy may be produced in this country only by the distillation of pomace or "cheese" to which no sugar has been added, either directly or through the correction of the original wine with sugar. This department is of the opinion that a brandy made from such a pomace should be labeled "pomace brandy." This department is of the further opinion that it is unnecessary to discuss the labeling of brandy made by distillation of pomace from wines that have been corrected with sugar, or of brandy distilled from pomace that has undergone fermentation with the addition of sugar and water, since the manufacture of these products is not permitted by the Bureau of Internal Revenue.

The only other product discussed at the hearing to which no objection is brought by the Bureau of Internal Revenue is brandy made by the distillation of lees. The department is of the opinion that brandy made in this fashion should be labeled "lees brandy."

Respectfully, C. L. Alsberg, *Chief.*

26. The labeling of cognac type of brandy.

Dear Sir: In the opinion of the bureau, the designation "cognac type of brandy," or "brandy, cognac type," would be permissible for a brandy made in California, provided the product is made in accordance with the process of manufacture used in France in the manufacture of cognac brandy and is of the same general flavor and character, and provided further, that the name of the State of production is stated on the label, as required by Regulation 19–c of the Rules and Regulations for the Enforcement of the Food and Drugs Act.

Respectfully, R. L. Emerson, *Assistant Chief.*

27. Imported macaroni containing an uncertified dye.

Letter to chiefs of inspection districts:

Dear Sir: A claim that all imported macaroni is colored with two dyes has been brought to our attention. In one instance we have isolated from a shipment of imported macaroni Naphthol Yellow S and Orange II. The claim is that the use of

Naphthol Yellow S imparts only a greenish color to the macaroni, and in order to make it yellow another dye is used. As this dye is an uncertified dye and renders the article liable to export, we would be glad to have you investigate this further within your district and to report on the same at your convenience.

Respectfully, R. L. EMERSON, *Assistant Chief.*

28. The labeling of imitation extract of cinnamon.

DEAR SIR: The standards of purity for food products, published in Circular No. 19 of the Office of the Secretary of Agriculture, define oil of cinnamon and oil of cassia, as well as extract of cinnamon and extract of cassia, as separate and distinct substances. Cinnamon extract is an extract prepared from oil of cinnamon and contains not less than 2 per cent by volume of oil of cinnamon, while cassia extract is prepared from oil of cassia and contains not less than 2 per cent by volume of oil of cassia.

In view of these distinctions, the labeling of a solution of oil of cassia or of a solution of a mixture of oils of cinnamon and cassia as cinnamon extract would, in the opinion of the bureau, constitute misbranding. Such products should be plainly labeled to show that they are imitation extracts of cinnamon or should be labeled in such a way as to indicate plainly their composition.

Respectfully, C. L. ALSBERG, *Chief.*

29. Misuse of the term "sandalwood oil."

DEAR SIR: We are in possession of an 8-ounce bottle of one of your oils labeled "Oil Sandalwood, W. I."

Your attention is called to the fact that this label is misleading in that confusion with the true oil of sandalwood, which is official in the United States Pharmacopœia, may easily result.

The proper name for West India sandalwood oil, which is in fact not a sandalwood oil at all, is oil of *Amyris balsamifera*, and this article should be labeled accordingly.

Respectfully, C. L. ALSBERG, *Chief.*

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT.

[Given pursuant to section 4 of the Food and Drugs Act.]

2880. Adulteration and misbranding of sorghum. U. S. v. Fort Scott Sorghum Syrup Co. Plea of guilty. Fine, $20 and costs. (F. & D. No. 4244. I. S. No. 17208-d.)

On March 4, 1913, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Fort Scott Sorghum Syrup Co., a corporation, Fort Scott, Kans., alleging shipment by said company, in violation of the Food and Drugs Act, on or about January 27, 1912, from the State of Kansas into the State of Nebraska, of a quantity of so-called pure sorghum which was adulterated and misbranded. The product was labeled: "Advo. Net weight 5 pounds. Advo. Pure Sorghum. Packed for McCord-Brady Co., Omaha, Neb."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Solids, by refractometer (per cent)	79.39
Ash (per cent)	2.8
Reducing sugars as invert before inversion (per cent)	37.2
Polarization direct at 32° C. (° V.)	+58.8
Polarization invert at 32° C. (° V.)	+28.0
Polarization invert at 87° C. (° V.)	+38.0
Sucrose, Clerget (per cent)	24.3
Commercial glucose (163) (per cent)	23.3

Adulteration of the product was alleged in the information, for the reason that it contained 23.3 per cent of commercial glucose and said commercial glucose had been mixed and packed in the product in such manner as to reduce and lower and injuriously affect its quality and strength, and, further, that a substance, to wit, commercial glucose, had been substituted wholly or in part for the genuine article. Misbranding was alleged for the reason that the product was labeled "Pure Sorghum" and said statement borne on the label was false and misleading, because it misled and deceived the purchaser into the belief that the product was pure sorghum, when, as a matter of fact, it was a mixture of sorghum and commercial glucose, and was further misbranded in that it was labeled and branded so as to deceive and mislead the purchaser, being labeled "Pure Sorghum," thereby purporting that it was a pure sorghum, when, in truth and in fact, it was a mixture of sorghum and commercial glucose.

On May 5, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $20 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2881. Adulteration and alleged misbranding of peppermint essence. U. S. v. The Weideman Co. Plea of guilty to count 1 of information. Fine, $50 and costs. Second count nolprossed. (F. & D. No. 4268. I. S. No. 2497-d.)

On November 15, 1912, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Weideman Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about June 16, 1911, from the State of Ohio into the State of New York, of a quantity of peppermint essence which was adulterated and alleged to have been misbranded. The product was labeled: (On head of keg) "G Peppermint Essence." (On opposite end of keg) "* * * Peppermint Formula Solution of Peppermint 800 parts. Hydro-alcoholic Solution 2,000 Parts Trace of Harmless Color."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity, 15.6°C./15.6°C	0.9174
Alcohol (per cent by volume)	57.84
Methyl alcohol (per cent by volume)	None.
Solids	0.15
Oil (per cent by volume) (by precipitation, Howard's method modified)	0.8
Coal-tar color	Present.

Color, Light Green S F Yellowish.

Adulteration of the product was alleged in the first count of the information for the reason that a substance, to wit, a peppermint essence or extract, deficient in oil of peppermint, had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality and strength, and in that said substance had been substituted wholly or in part for the full strength peppermint essence or extract which the article was prominently represented to be. Adulteration was alleged for the further reason that the product was artificially colored with a green dye, whereby the appearance of a full strength peppermint essence or extract was simulated, and the inferiority of this article as a dilute peppermint extract or essence, deficient in oil of peppermint, was concealed. Misbranding was alleged in the second count of the information for the reasons that the statement on the label "Peppermint Essence" was false and misleading, as it conveyed the impression that the product was a full strength essence or extract of peppermint, whereas it was a dilute extract or essence of peppermint, deficient in oil of peppermint, and that it was labeled and branded so as to deceive and mislead the purchaser, being prominently labeled as a peppermint essence, thereby purporting that it was a genuine peppermint essence or extract of full strength, whereas it was a dilute peppermint extract or essence deficient in oil of peppermint, and the qualifying statement contained in a formula appearing on the label was not sufficient to correct the false impression created by the statement heretofore cited.

On November 18, 1912, the defendant company entered a plea of guilty to the first count of the information, and the court imposed a fine of $50 and costs. The second count of the information, charging misbranding, was nolprossed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2882. Adulteration and misbranding of mincemeat. U. S. v. The W. H. Marvin Co. Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 4269. I. S. No. 10101-d.)

On January 17, 1913, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against The W. H. Marvin Co., a corporation, Urbana, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on September 1, 1911, from the State of Ohio into the State of Minnesota, of a quantity of an article purporting to be mincemeat which was adulterated and misbranded. The product was labeled: (On carton) "Gopher Brand (Device: picture of gopher) Mince Meat prepared for Foley Bros. & Kelly, St. Paul, Minn. Guarantee: This Mince Meat is guaranteed to meet the requirements of the National Pure Food Law enacted June 30, 1906, and is composed of the following articles: Meat, raisins, currants, apples, sugar, salt, spices, flour, and fruit juices. The Meat used in this Mince Meat is U. S. inspected and passed at an establishment where inspection is maintained under the Act of Congress June 30, 1906. 12 ozs. net."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Protein (N × 6.25) (per cent)	1.68
Fat (per cent)	0.25

Microscopic examination: Approximately 0.1 per cent meat present.
No suet found.

Adulteration of the product was alleged in the information for the reason that a certain substance, to wit, a food product containing but a trace of meat, that is to say, 0.1 per cent of meat, was substituted for what the article of food by its said label and brand purported to be, namely, mincemeat containing a substantial amount of meat. Misbranding of the product was alleged in the information for the reason that the label and brand thereon bore statements regarding the article of food and the ingredients and substances contained therein, which said statements, to wit, "Mince Meat" * * * "Composed of the following articles": "Meat * * *," and "The meat contained herein has been inspected and passed at an establishment where Federal inspection is maintained," were false, misleading, and deceptive, in that said statements purported and represented the article to be a mincemeat containing a substantial proportion of meat, whereas, in truth and in fact, the article of food contained but a trace, that is to say, 0.1 per cent of meat. Misbranding was alleged for the further reason that the article of food was labeled and branded as aforesaid so as to deceive and mislead the purchaser, in that said label and brand was calculated and intended to convey the impression and create the belief that the article of food was a product containing a substantial amount of meat, whereas, in truth and in fact, it did not contain a substantial amount of meat, but contained only a trace, that is to say, 0.1 per cent of meat.

On October 28, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $25, with costs of $15.20.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2883. Adulteration and misbranding of mincemeat. U. S. v. The W. H. Marvin Co. Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 4270. I. S. No. 13553-d.)

On November 8, 1912, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The W. H. Marvin Co., a corporation, Urbana, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on October 5, 1911, from the State of Ohio into the State of West Virginia, of a quantity of so-called mincemeat which was adulterated and misbranded. The product was labeled: "Blue Ribbon Brand Condensed Mincemeat. Packed by The W. H. Marvin Co., Urbana, O. This mincemeat is guaranteed to meet the requirements of the National Pure Food Law enacted June 30, 1906, and is composed of the following articles: meat, raisins, currants, apples, sugar, syrup, salt, vinegar, spices and fruit juices. The meat contained herein has been inspected and passed at an establishment where Federal inspection is maintained. 12 oz. net."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Out of 300 grams examined, approximately two-tenths of 1 per cent of meat present; no suet found. Adulteration of the product was alleged in the information for the reason that a certain substance, to wit, a food product containing but a trace of meat, that is to say 0.2 per cent of meat, was substituted for what the product by its label and brand purported to be, namely, mincemeat containing a substantial amount of meat. Misbranding was alleged for the following reasons, to wit: First: That the label and brand on the article bore statements regarding it and the ingredients and substances contained therein, which said statements, to wit, "Mincemeat," "Meat, . . . " and "The meat contained herein has been inspected and passed at an establishment where Federal inspection is maintained," were false, misleading, and deceptive, in that said statement purported and represented the article to be a mincemeat containing a substantial proportion of meat, whereas, in truth and in fact, the article contained but a trace of meat, namely, 0.2 per cent. Second: That the article was labeled and branded as aforesaid so as to deceive and mislead the purchaser, in that said label and brand was calculated and intended to convey the impression and create the belief that it was a product containing a substan-

tial amount of meat, whereas, in truth and in fact, it did not contain a substantial amount of meat but contained only a trace of meat, namely, 0.2 per cent.

On October 28, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2884. Adulteration and misbranding of olive oil. U. S. v. Giovanni Cristani. Plea of guilty. Fine, $25. (F. & D. No. 4273. I. S. No. 15310-d.)

On August 6, 1912, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Giovanni Cristani, New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on December 6, 1911, from the State of New York into the State of Connecticut, of a quantity of so-called olive oil which was adulterated and misbranded. The product was labeled: "Pure Olive Oil. Product of Italy. Cono Brand. Finest olive oil for table use and medicinal purposes. Serial No. 12265. Guaranteed under United States Pure Food and Drugs Act, June 30, 1906. Olio D'Oliva Puro. Prodotto Italiano. Cono. Pure olive oil. Product of Italy. Cono."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity at 15.50° C.	0.9196
Refractive index at 15.50° C.	1.4738
Odor and taste: Rancid.	
Cottonseed oil (Halphen test)	Positive.
Iodin number	109.0
Free fatty acids as oleic (per cent)	0.97
Sesame oil (villavecchia test)	Negative.

Adulteration of the product was alleged in the information for the reason that a substance, namely, cottonseed oil, had been mixed and packed with it so as to reduce and lower and injuriously affect its quality and strength, in that a substance, namely, cottonseed oil, had been substituted in part for the article. Misbranding was alleged for the reason that the package and label of the article bore a statement, design, and device regarding it and the ingredients and substances contained therein which was false and misleading for the reason that the article, which purported to be a pure olive oil, in fact consisted essentially of cottonseed oil.

On November 18, 1912, the defendant entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2885. Alleged misbranding of syrup. U. S. v. Bludwine Co. Tried to the court and a jury. Verdict, not guilty. (F. & D. No. 4274. I. S. No. 598-d.)

On November 4, 1912, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Bludwine Co., a corporation, Athens, Ga., alleging shipment by said company, in violation of the Food and Drugs Act, on September 27, 1911, from the State of Georgia into the State of Tennessee, of a quantity of so-called Bludwine syrup which was alleged to have been misbranded. The product was labeled: "Bludwine Syrup. For your health's sake. Guaranteed by Bludwine Co., under Pure Food and Drugs Act, June 30, 1906. Serial No. 8869. Directions. For carbonating—Use 1¼ ozs. Bludwine Syrup to 7 oz. Bottle. As a table wine—Use 1 part Bludwine Syrup to four parts pure cold water. Bludwine Co., Athens, Ga."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Citric acid (per cent)	0.142
Phosphoric acid (per cent)	0.066
Tartaric acid	None.
Eosin dye, probably Uranin No. 510.	
Total solids (per cent)	62.5
Alcohol (per cent by volume)	0.11
Ash (per cent)	0.11
Sucrose (per cent)	1.2
Total sugar as invert (per cent)	63.7
Flavor: Capsicum.	
Color: Amaranth.	
Total acid as citric (per cent)	0.37

Misbranding of the product was alleged in the information for the reason that the statement "Bludwine Syrup," borne on the label, was false and misleading because it misled and deceived the purchaser into the belief that the product contained wine when, as a matter of fact, it did not contain wine. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled "Bludwine Syrup," thereby creating the impression that it contained wine when, as a matter of fact, it did not contain wine.

On May 28, 1913, the case having come on for trial before the court and a jury after the submission of evidence and argument by counsel, the case was given to the jury and after due deliberation the jury returned into court with its verdict of not guilty.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2886. Adulteration of tomato catsup. U. S. v. H. N. Weller et al. Plea of guilty. Fine, $50 and costs. (F. & D. Nos. 4287, 4839, and 4904. I. S. Nos. 13673-d, 13674-d, 13675-d, 23967-d, and 23979-d.)

On April 3, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in five counts against H. N. Weller, H. J. P. Weller, and John Streibig, copartners trading under the firm name and style of H. N. Weller & Co., Toledo, Ohio, alleging shipment by said defendants, in violation of the Food and Drugs Act—

(1) On or about November 22, 1911, from the State of Ohio into the State of Oklahoma, of a quantity of three different brands of tomato catsup which was adulterated. The first brand was labeled: "New State Brand Tomato Catsup Packed for the Williamson-Halsell-Frasier Co. Oklahoma City-Guthrie-Shawnee-Chickasha-Elk City-Altus, Oklahoma." (Wooden cases marked) "2 doz. No. 16 New State Brand Tomato Catsup Packed for Williamson-Halzell-Frasier Co., Oklahoma City, Chickasha, Guthrie, Shawnee, Altus, Elk City, Okla." Examination of a sample of this brand by the Bureau of Chemistry of this department showed the following results: Mold filaments present in about 20 per cent of all microscopic fields examined; yeasts and spores, about 50 per one-sixtieth cubic millimeter, and bacteria about 200,000,000 per cc. The second brand was labeled: "Belle Isle Brand Tomato Catsup Preserved with $\frac{1}{10}$ of 1% Benzoate Soda Williamson-Halzell-Frasier Co., Oklahoma City, Okla." Examination of a sample of this brand by said Bureau of Chemistry showed the following results: Mold filaments present in about 25 per cent of all microscopic fields examined; yeasts and spores, about 75 per one-sixtieth cubic millimeter; bacteria about 250,000,000 per cc. The third brand was labeled: "Belle Isle Brand Tomato Catsup Preserved with $\frac{1}{10}$ of 1% Benzoate Soda Williamson-Halsell-Frasier

Co., Oklahoma City, Okla." (Wooden cases marked) "2 doz. No. 14 Belle Isle Brand Tomato Catsup Preserved with $\frac{1}{10}$ of 1% Benzoate Soda Packed for Williamson Halsell Frasier Co., Oklahoma City, Chickasha, Guthrie." Examination of a sample of this brand by said Bureau of Chemistry showed the following results: Mold filaments present in about 20 per cent of all microscopic fields examined; yeasts and spores, about 70 per one-sixtieth cubic millimeter, and bacteria about 200,000,000 per cc. Adulteration of the product was alleged in the information for the reason that it consisted in part of a filthy and decomposed vegetable substance.

(2) On or about June 4, 1912, from the State of Ohio into the State of New York, of two brands of tomato catsup which was adulterated. The first of these brands was labeled: "Perfection Brand Tomato Catsup. Ingredients: Tomatoes, sugar, vinegar, salt, onions, garlic, spices, and one-tenth of 1 per cent of benzoate of soda. Not artificially colored. Packed by H. N. Weller & Co., Toledo, Ohio." Examination of a sample of this brand by said Bureau of Chemistry showed the following results: Mold filaments present in about 40 per cent of all microscopic fields examined; yeasts and spores, about 90 per one-sixtieth cubic millimeter, and bacteria about 100,000,000 per cc. The second brand was labeled: "Perfection Brand Tomato Catsup. Ingredients: Tomatoes, sugar, vinegar, salt, onions, garlic, spices, and one-tenth of 1 per cent benzoate of soda. Not artificially colored. Packed by H. N. Weller & Co., Toledo, Ohio." Examination of a sample of this brand by said Bureau of Chemistry showed the following results: Mold filaments present in about 82 per cent of all microscopic fields examined; yeasts and spores, about 61 per one-sixtieth cubic millimeter, and bacteria about 125,000,000 per c.c. Adulteration of the product was alleged in the information for the reason that it consisted in part of a decomposed vegetable substance.

On November 28, 1913, a plea of guilty was entered on behalf of the defendant firm and the court imposed a fine of $50 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2887. Misbranding of evaporated milk. U. S. v. 650 Cases of Evaporated Milk. Consent decree of condemnation and forfeiture. Goods released on bond. (F. & D. Nos. 4294, 4295, 4296. S. No. 1459.)

On July 12, 1912, the United States attorney for the northern district of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 650 cases of evaporated milk remaining unsold in the original unbroken packages at Oakland, Cal., alleging that the product had been shipped on or about April 19, 1912, from the State of Wisconsin into the State of California, and thereafter distributed to Dodge, Sweeney & Co., F. B. Peterson, William Cluff Co., Oakland, Cal., and to other persons, firms, and corporations unknown to libelant, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: (On cases) "Globe unsweetened evaporated milk manufactured and guaranteed by National Condensed Milk Company, Chicago, Ill., U. S. A." (On cans) "Registered U. S. Pat. Of. Globe (design, atlas and cow) evaporated milk. Globe unsweetened evaporated milk is prepared from the very best milk products in the great dairy State of Wisconsin reduced to the consistency of cream by evaporation vacui. It is perfectly sterilized and free from bacteria and all disease producing germs. The milk from its production on model farms under our direct supervision until finally marketed is scientifically handled, every precaution being taken to insure high uniform quality unapproached by other brands. Every can is guaranteed. Globe evaporated milk is available for every purpose for which fresh milk or cream is used and preferably on account of its absolute purity and perfect sterilization. It is a perfect food for infants, nursing mothers and sick, and for any troubled with weak digestion, being very nourishing, and our process softens the casein thereby rendering the milk very easy of digestion. In handy form for use on land and sea. Guaranteed by National Condensed Milk Co. under the

Food and Drugs Act June 30th 1906 Guaranty No. 18300 National Condensed Milk Co. Chicago Ill. U. S. A."

Analysis of the sample of the product on which the action was based, by the Bureau of Chemistry of this department, showed the following results:

Total solids (per cent)..... 24.99
Butter fat (per cent)..... 7.35
Sum of total solids and butter fat (per cent)..... 32.34

Misbranding of the product was alleged in the libel for the reason that it was not sufficiently reduced to be entitled to the name "Evaporated Milk," and further for the reason that it was below the limit described in Food Inspection Decision 131.

On January 30, 1913, an answer having been filed by Taft & Suydam (Inc.), as agent for the National Condensed Milk Co., Chicago, Ill., claimant of the goods, whereby said claimant admitted that the analyses made on behalf of libelant were correct, and that said analyses showed that the percentages of total milk solids and of the butter fat in the product were as follows, each of the batches being designated by the number affixed by representative of the libelant at the time the samples were taken, to wit:

Batch No.	Total solids.	Butter fat.	Sum of total solids and of butter fat.
37253–E	24.20	7.67	31.87
37254–E	24.21	8.31	32.52
37255–E	25.07	8.46	33.54
37256–E	24.40	7.46	31.86
37257–E	24.37	7.45	31.82
37258–E	25.00	7.72	32.72
37259–E	25.33	8.22	33.55
37260–E	25.15	7.65	32.80
37261–E	24.80	7.65	32.45
37262–E	25.49	7.92	33.41
37263–E	25.47	7.91	33.38
37264–E	25.34	7.97	33.31

and that the total percentage of total milk solids and of butter fat was less than 34.3, prescribed by Food Inspection Decision 131 as the minimum total percentage of total milk solids and butter fat permissible in evaporated milk, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be released and delivered to the claimant upon payment of the costs of the proceedings and the execution of bond in the sum of $600 in comformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2888. Adulteration and misbranding of vanilla extract. U. S. v. One Five-gallon Keg of Vanilla Extract. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 4299. S. No. 1460.)

On July 12, 1912, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of one 5-gallon keg of vanilla extract remaining unsold in the original unbroken package at Cleveland, Ohio, alleging that the product had been shipped by the William Haigh Co., Baltimore, Md., on or about June 26, 1912, to Peter Nichols, Cleveland, Ohio, and transported from the State of Maryland into the State of Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: (First label) "Guaranteed by the Wm. Haigh Co. under the Food and Drugs Act, June 30, 1906. The Wm. Haigh Co., 126–128 S. Calvert Street, Baltimore, Md." (Second label) "Special XXXX Vanilla Flavor. Special flavoring for ice cream and candies prepared from vanilla beans, added vanillin and coumarin. Lead number (in analysis for vanilla bean) approximately .23." (Third label) "Manufactures Extracts, Fruit Juices, etc.

Vanilla Beans, Essential Oils, Colors, etc. The William Haigh Co., Manufacturing Chemists, 128 S. Calvert St., Baltimore, Md."

It was alleged in the libel that the product was adulterated in violation of paragraphs 1 and 2, under foods, of section 7 of the act of Congress approved June 30, 1906, commonly known and designated as the Food and Drugs Act. It was alleged that the product was misbranded in violation of section 8, paragraphs 2 and 4, under food, of said act of June 30, 1906.

On November 18, 1912, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, the court finding the product misbranded. It was ordered by the court that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2889. Adulteration and misbranding of so-called apple cider. U. S. v. National Fruit Products Co. Plea of guilty. Fine $25 and costs. (F. & D. No. 4334. I. S. No. 5764-c.)

On August 13, 1913, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the National Fruit Products Co., a corporation, Memphis, Tenn., alleging shipment by said company in violation of the Food and Drugs Act, on or about January 19, 1911, from the State of Tennessee into the State of Texas, of a quantity of so-called apple cider which was adulterated and misbranded. The product was labeled: "Apple Cider—Guaranteed. The contents of this package, as originally filled, are guaranteed to be made from apple juice fortified with sugar. (No distilled spirits, wine, fermented juice of grapes or other small fruits or alcoholic liquors being added.) Contains 1/10 of 1% benzoate of soda and artificial sweeting matter and conforms to the provisions of the Food and Drugs Act of June 30, 1906. We also guarantee the contents of this package, as originally filled, to be exempt from Internal Revenue Tax, National Fruit Products Co., Memphis, Tenn."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity (20°C./4°C.)	1.0374
Alcohol (per cent by volume)	7.72
Solids, by refractometer (after removal of alcohol) (grams per 100 cc)	12.48
Nonsugar solids (grams per 100 cc)	4.44
Sucrose, by reduction (grams per 100 cc)	0.21
Reducing sugars (direct as invert sugar) (grams per 100 cc)	7.81
Polarizations (undiluted):	
Direct, 20° C. (°V.)	+44.5
Invert, 20° C. (°V.)	+47.0
Invert, 87° C. (°V.)	+46.2
Total ash (grams per 100 cc)	0.34
Alkalinity soluble ash (cc N/10 acid per 100 cc)	20.0
Soluble phosphoric acid (mg per 100 cc)	2.4
Insoluble phosphoric acid (mg per 100 cc)	6.6
Acid, as acetic (grams per 100 cc)	0.59
Volatile acid, as acetic (grams per 100 cc)	0.30
Fixed acid, as malic (grams per 100 cc)	0.30
Commercial glucose (factor 163) (grams per 100 cc)	7.1
Erythrodextrus test	Positive.
Saccharin	Present.
Coal-tar color: None detected.	
Benzoic acid, calculated as sodium benzoate (approximately) (per cent)	0.09
Added vegetable color: Caramel.	

Adulteration of the product was alleged in the information for the reason that a compound alcoholic beverage prepared from apple juice, starch sugar, saccharin, and benzoate of soda had been mixed and added to the said article of food so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that said substance had been substituted wholly or in part for the pure apple cider the article purported to be. Misbranding was alleged for the following reasons: (1) In that the statement contained on the label, "Apple Cider," was false and misleading, as it conveyed and was calculated and intended to convey the impression to the purchaser or purchasers thereof that the product was a pure apple cider, whereas it was a compound alcoholic beverage prepared from apple juice, starch sugar, saccharin, and benzoate of soda; (2) in that the statement on said label, "Fortified with sugar," was false and misleading, as it conveyed the impression and was calculated and intended to convey the impression that the product was fortified with cane sugar, whereas, in truth and in fact, it was fortified with starch sugar and not with cane sugar; (3) in that the statement contained on said label, "Conforms to the provisions of the Food and Drugs Act as passed by Congress of June 30, 1906," was false and misleading and it conveyed and was calculated and intended to convey the impression that the product was not adulterated or misbranded, whereas, in fact, the product was both adulterated and misbranded, and that it was represented as a pure apple cider, when, in fact, it was a compound alcoholic beverage prepared in whole or in part from the ingredients above stated; (4) in that it was labeled and branded so as to deceive and mislead the purchaser or purchasers into the belief that the same was pure apple cider, fortified with cane sugar, whereas the same was a compound alcoholic beverage, prepared from apple juice, fortified with starch sugar, and contained saccharin and benzoate of soda; (5) in that the label aforesaid contained the statement "No distilled spirits, wine, fermented juice of grapes or other small fruits or alcoholic liquors being added," whereas, in fact, the article contained approximately 7.72 per cent by volume of alcohol; (6) in that the label did not disclose the presence or percentage of alcohol contained in said article as required by said act of Congress.

On November 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25, with costs of $15.85. When the case was reported for prosecution no charge of misbranding was made because the label of the product failed to bear a statement showing the quantity or proportion of alcohol contained therein. B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2890. Adulteration and misbranding of olive oil. U. S. v. Giovanni Cristani. Plea of guilty. Fine, $25. (F. & D. No. 4346. I. S. No. 15337-d.)

On August 8, 1912, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Giovanni Cristani, New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on January 17, 1912, from the State of New York into the State of Connecticut, of a quantity of olive oil which was adulterated and misbranded. The product was labeled: "Pure Olive Oil—Product of Italy—Etruria Brand Finest Olive Oil for table use and medicinal purposes. Olio d'Oliva Puro—Prodotto Italiano Marca Etruria."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity at 15.5° C	0.9205
Index of refraction at 25° C	1.4700
Iodin number	100.6
Cottonseed oil test	Positive.

Adulteration of the product was alleged in the information for the reason that a substance, to wit, cottonseed oil, had been substituted in part for the article, to wit, olive oil. Misbranding was alleged for the reason that the label and package of the article bore a statement, "Pure Olive Oil," which said statement was false and misleading in that the article was not pure olive oil, but a mixture of olive oil and cottonseed oil; and further, in that the label and package bore a statement, "Product of Italy," which said statement was false and misleading in that it represented that the article was an olive oil imported from Italy, whereas in fact the article was a mixture of olive oil and cottonseed oil manufactured in the United States; and was further misbranded in that it was labeled and branded so as to mislead and deceive the purchaser into the belief that the article was pure olive oil imported from Italy, whereas in fact it was a mixture of olive oil and cottonseed oil produced and manufactured in the United States; and was further misbranded in that it was falsely branded as to the country in which it was manufactured and produced, that is to say, the said article on the label, container, and package thereof purported to be a foreign product of the Kingdom of Italy, whereas in fact the article was a product manufactured in the United States of America.

On November 18, 1912, the defendant entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2891. Adulteration and misbranding of vanilla flavor. U. S. v. H. T. Hackney Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4348. I. S. No. 7927-d.)

On October 10, 1912, the United States attorney for the Eastern District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the H. T. Hackney Co., a corporation, Knoxville, Tenn., alleging shipment by said company, in violation of the Food and Drugs Act, on December 15, 1911, from the State of Tennessee into the State of North Carolina, of a quantity of so-called vanilla flavor which was adulterated and misbranded. The product was labeled: "Lowe's Red Diamond Vanilla Flavor Colored. Containing not less than 3% soluble matter vanilla bean. For flavoring pastry, &c. Knoxville Drug Co., Knoxville, Tenn."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity, at 20°/4° C	0.9841
Ethyl alcohol (per cent by volume)	37.3
Methyl alcohol (per cent by volume)	None.
Solids (per cent by weight)	8.66
Sucrose (per cent by weight)	2.47
Reducing sugars (per cent by weight)	5.32
Ash (per cent by weight)	0.24
Vanillin (per cent by weight)	0.06
Coumarin (per cent by weight)	None.
Normal lead number	0.36
Vanilla resin reactions, satisfactory.	
Volume in container (average of six bottles measured) (cc)	30.6
Coloring matter, natural, reinforced with caramel.	

Adulteration of the product was alleged in the information for the reason that it was labeled in large type "Vanilla Flavor," and was invoiced and sold as vanilla flavor, and a substance, to wit, a dilute flavor of vanilla, artificially colored with caramel, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength; and further in that a substance, to wit, a dilute flavor of vanilla, artificially colored with caramel, had been substituted wholly or in part for the article

(vanilla flavor); and further in that the product was colored in a manner whereby its inferiority or lack of strength was concealed. Misbranding was alleged for the reason that the statement "Vanilla Flavor" borne in large type on the label of the package in which it was offered for sale was false and misleading, because it misled and deceived the purchaser into the belief that said product was a standard strength vanilla flavor of vanilla extract, whereas, in truth and in fact, it was not standard strength vanilla flavor or vanilla extract, but consisted in whole or in part of a dilute flavor of vanilla artificially colored with caramel to simulate the appearance of genuine full strength vanilla extract; furthermore, that said product was so labeled or branded as to mislead and deceive the purchaser, being labeled and branded in large type "Vanilla Flavor," and in much smaller type "containing not less than 3 per cent soluble matter vanilla bean," which form of labeling misled and deceived the purchaser into the belief that the product was a genuine full strength vanilla extract, but was a product consisting in whole or in part of a dilute vanilla flavor or extract artificially colored with caramel, and the statement in small type "containing not less than 3 per cent soluble matter vanilla bean" was so inconspicuous as to fail to correct the misleading impression conveyed by the statement "Vanilla Flavor" in larger type.

On July 17, 1913, the defendant company having entered a formal plea of guilty to the information, the court imposed a nominal fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2892. Adulteration of desiccated eggs. U. S. v. Seven Drums Desiccated Eggs. Consent decree of condemnation and forfeiture. Goods ordered released on bond. (F. & D. No. 4351. S. No. 1472.)

On July 26, 1912, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of seven drums of desiccated eggs remaining unsold in the original unbroken packages in possession of Wood & Selick, 36 Hudson Street, New York, N. Y., alleging that the product had been shipped on or about July 20, 1912, from the State of Illinois into the State of New York, and charging adulteration in violation of the Food and Drugs Act. The product bore no label.

Adulteration of the product was alleged in the libel for the reason that it consisted in whole and in part of a filthy, decomposed, and putrid animal substance.

On November 14, 1913, the Purity Food & Storage Co., claimant, Chicago, Ill., having withdrawn by consent of the court its answer, exceptions, and interrogatories to the libel, and having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be redelivered to said claimant upon payment of the cost of proceedings and the execution of bond in the sum of $250, conditioned that the product should be denatured and rendered unfit for food and marked in such a manner as plainly to indicate that it was not fit for food and fit for technical purposes only, all in conformity with section 10 of the act. It was further ordered that in default of payment of the costs and the execution of bond by claimant, the goods should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2893. Misbranding of Rosolio di China. U. S. v. Basilea & Calandra Co. Plea of guilty. Fine, $10. (F. & D. No. 4357. I. S. No. 10079-d.)

On February 5, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Basilea & Calandra Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on September 7, 1912, from the State of New York into the

State of Missouri, of a quantity of Rosolio di China which was misbranded. The product was labeled: "Rosolio di China Il Migliore dei Carminativi ed Aperitivi."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Alcohol (per cent by volume), 21.7; sugar (Clerget) (per cent), 24.2; bitter plant extractive; odor indicates presence of calamus; trace of quinin. Misbranding of the product was alleged in the information for the reason that the package in which it was shipped failed to bear a statement on the label thereof of the quantity or proportion of alcohol contained therein, whereas, in truth and in fact, it contained alcohol to the extent of 21.7 per cent.

On November 14, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2894. Adulteration and misbranding of ammonium salicylate compound tablets. U. S. v. John T. Milliken & Co. Plea of guilty. Fine, $20 and costs. (F. & D. No. 4359. I. S. No. 16023-d.)

On November 5, 1913, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against John T. Milliken, doing business under the firm name and style of John T. Milliken & Co., St. Louis, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about November 11, 1911, from the State of Missouri into the State of Indiana, of a quantity of so-called "Ammonium Salicylate Compound Tablets," which were adulterated and misbranded. The tablets were labeled: "500 compressed tablets No. 23. Ammonium salicylate comp. Each tablet represents phenacetine 1 gr. Salicine 1½ grs. Ammonium salicylate 3 grs. Caffeine ½ gr. Dose, 1 to 2 tablets. 27566 guaranteed by Jno. T. Milliken & Co. under Food and Drugs Act, June 30, 1906. No. 1392. Jno. T. Milliken & Co., manufacturing chemists, St. Louis, U. S. A., 6610."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Each tablet represents acetphenetidin (phenacetin), 0.853 grain; salicin, 0.989 grain; ammonium salicylate, 1.685 grains; caffein, 0.465 grain. Adulteration of the product was alleged in the information for the reason that it fell below the professed standard under which it was sold, to wit, phenacetin, 1 grain; salicin, 1½ grains; ammonium salicylate, 3 grains; caffein, one-half grain, in that said tablets each contained only 0.853 grain phenacetin, 0.989 grain salicin, 1.685 grains ammonium salicylate, and 0.465 grain caffein. Misbranding was alleged for the reason that the statement borne on the label set forth above was false and misleading, because it created the impression and led the purchaser to believe that the product contained said amounts of phenacetin, salicin, ammonium salicylate, and caffein, as therein stated, when, in truth and in fact, the tablets contained only 0.853 grain phenacetin, 0.989 grain salicin, 1.685 grains ammonium salicylate, and 0.465 grain caffein.

On November 24, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $20 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2895. Adulteration of frozen egg product. U. S. v. Excelsior Baking Co. Tried to a jury. Verdict of guilty. Fine, $200. (F. & D. No. 4378. I. S. No. 1861-d.)

On September 17, 1912, the grand inquest of the United States of America, inquiring in and for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, returned an indictment in the District Court of the United States for said district against the Excelsior Baking Co., a corporation, Philadelphia, Pa., charging shipment by said company, in violation of the Food and Drugs Act, on or about January 5, 1912, from the State of Pennsylvania into the State of New Jersey of a quantity of frozen egg product which was adulterated.

Examination of a sample of the product by the Bureau of Chemistry of this department showed the following results: Microchemical examination: This is a poor product well strained. Odor bad when opened (egg frozen solid). Parts of four embryos and one piece containing mold found. Cover of container rusted on both sides.

Bacteriological examination:

250,000,000 bacteria per gram after 5 days on plain agar at 25° C.
280,000,000 bacteria per gram after 5 days on plain agar at 25° C.
120,000,000 bacteria per gram after 5 days on plain agar at 37° C.
210,000,000 bacteria per gram after 5 days on plain agar at 37° C.
1,000,000 *B. coli* group.
1,000,000 streptococci.

Chemical examination (all results calculated to moisture fat free basis):

cc of N/100 iodin solution per 15 grams of sample	199.6
mg of free ammonia, using ZnO method, per 100 grams of eggs	119.7
mg of free ammonia, using Folin's method by titration, per 100 grams of eggs	60.6

Adulteration of the product was charged in the indictment for the reason that it consisted in part of a filthy, decomposed, and putrid animal and vegetable substance.

On June 12, 1913, the case having come on for trial before the court and a jury, after the submission of evidence and argument by counsel, the following charge was delivered to the jury by the court (Thompson, *J.*):

Gentlemen of the Jury: The defendant corporation in this case is charged with the violation of what is known as the Pure Food and Drugs Act. The object of that act, as you all are aware, is to protect the consumers from having food or drugs sold to them and delivered to them which are adulterated or misbranded. Under this act it is not necessary to prove the knowledge of a defendant that the article shipped in interstate commerce was adulterated or misbranded. The responsibility is put upon dealers who ship. That is for the protection of the customer. The responsibility is put upon them of shipping only articles that are not adulterated or misbranded.

The charge in this case is that the defendant corporation shipped in interstate commerce from Philadelphia, in the State of Pennsylvania, to Newark, in the State of New Jersey, the egg product that has been testified to in this case, and that the egg product in question was adulterated. Under the interstate commerce act, which is known as the Pure Food and Drugs Act, adulteration is defined in this way, an article is, under the act, held to be adulterated if it consists in whole or in part of a filthy, decomposed, or putrid animal substance. The charge in this case was that the egg product which has been testified to was filthy, putrid, and decomposed. The defendant here is charged, through its president, with having delivered for shipment by the Pennsylvania Company this food product which is alleged to be adulterated.

It seems to me that the first question for you to consider would be whether the product was in fact shipped by the president of the defendant within the scope of his authority as the president of the company, and within the scope of his employment. Upon the witness stand he testified that he did not make out the shipping order through which this merchandise was shipped, and that he knew nothing about it. You will have to take into consideration the fact that he is an interested party in this case, being the president, and one of the owners of the defendant company, and the Government is, therefore, allowed to contradict his testimony by introducing expert testimony to show that the shipping order opon which this product was shipped, or alleged to be shipped, was in the same handwriting, written by the same person as the other shipping orders which it is admitted he did fill out and sign. So that the first question for you to consider will be the question as to whether that shipping order signed "Frank Riley" was written by the same person who wrote the other shipping orders. You have the testimony of the expert, and you have heard from him the basis on which he expresses an opinion that, without any doubt in his mind, the same person wrote the shipping order in dispute who wrote the shipping orders which are admitted to be the act of the president of the defendant company. The inspection of these documents is also for you. You have a right, with your own knowledge of handwriting, to compare the two. They will be before you for comparison, and if you find from the evidence of the expert, and from your comparison of the handwriting, that the handwriting is the same in both instances, the handwriting of the president of the defendant company, then you have taken one step in the consideration of the case. If, however, upon a comparison of the handwriting and a consideration of the testimony of the expert you are not satisfied that it was

written by the same person, then you would be justified in going no further in the case at all, because that is the link which connects the defendant company with the transaction. So that if you are not satisfied that it is his handwriting, written by the same person, you would then return a verdict of "Not guilty." But if, after having examined the writings, you are satisfied beyond a reasonable doubt that the documents were written by the same person, then you will take up the other questions in the case.

Now, it is for you to determine from the testimony, as you have heard it, whether the article which was inspected by the laboratory at Washington, and which has been testified to be adulterated within the meaning of the act, was the food that was shipped from the defendant to the concern in Newark, N. J. You will take into consideration the documentary evidence in the case and the testimony of the witnesses, and if you find from the documentary evidence and from the testimony that this frozen egg product is sufficiently traced from the defendant to the department at Washington, and you find it was adulterated, and you find it was shipped in interstate commerce by the defendant, and it was adulterated within the meaning of the act, then you would be justified in returning a verdict of guilty. You will bear in mind in this case, as in all criminal cases, the defendant is entitled to the presumption of innocence, and it is upon the Government to establish the defendant's guilt beyond a reasonable doubt. When I say "reasonable doubt," I mean a doubt which would arise in the mind of a reasonable man from the evidence, and you are not to be influenced by anything outside of the evidence to determine whether or not a doubt exists; that is to say, no prejudice or whim or anything of that sort should influence you, but you should be governed entirely by the evidence in the case.

I do not know as there is anything further for me to say to you. The documents in evidence will be submitted to you. You can take them out, and you will return a verdict as you think the evidence warrants it.

Mr. BRINTON. Some point was made in the argument about the date of shipment.

The COURT. The fact that there was a discrepancy between the date of the shipping order and that laid in the indictment is entirely immaterial.

I will say to you, gentlemen, there has been some point raised here as to the guaranty under the act. There has been no evidence here to establish any guaranty by the dealer from whom it is alleged this article came to relieve the defendant in this case. The act provides just what sort of a guaranty shall be given, and it is not necessary for me to go into the details of it, but no guaranty has been proved in the case, such as comes within the act.

The jury then retired, and after due deliberation returned into court with a verdict of guilty. Thereupon a motion for a new trial was made on behalf of the defendant company, and on July 3, 1913, an order was entered refusing a new trial and arrest of judgment.

On September 22, 1913, the defendant company was sentenced to pay a fine of $200.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 18, 1914.*

2896. Adulteration of apple jelly. U. S. v. 225 Packages of Apple Jelly. Product ordered released on payment of costs and execution of bond. (F. & D. No. 4391. S. No. 1477.)

On August 23, 1912, the United States attorney for the eastern district of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 225 packages containing approximately 10,000 pounds of apple jelly, remaining unsold in the original unbroken packages at Alexandria, Va., alleging that the product had been shipped by Worth & Co., New York, N. Y., and transported from the State of New York into the State of Virginia, consigned to Board, Armstrong & Co., Alexandria, Va., and charging adulteration in violation of the Food and Drugs Act. The product bore no label.

Adulteration of the product was alleged in the libel for the reason that it consisted wholly or in part of old, filthy, and decomposed souring and fermenting vegetable substances, and did not consist of fresh, sound, and wholesome apple jelly or any other wholesome vegetable product.

On November 7, 1912, A. C. Worth & Co., claimant, having admitted the allegations in the libel, it was ordered by the court that, upon payment of the costs of the pro-

ceedings and the execution of bond in the sum of $500, in conformity with section 10 of the act, the product should be delivered to said claimant.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2897. Misbranding of rice. U. S. v. Southern Rice Growers Association. Plea of guilty. Fine, $100 and costs. (F. & D. No. 4395. I. S. No. 1021-d.)

On January 8, 1913, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Southern Rice Growers Association, a corporation, Beaumont, Tex., alleging shipment by said company, in violation of the Food and Drugs Act, on July 22, 1911, from the State of Texas into the State of Louisiana, of a quantity of rice which was misbranded. The product was labeled, "No. 15 for Drawback Grandy Jobbing Co., Norfolk, Va. 2071 N. Mon. 1191 8287." It bore no other label, but was sold and invoiced as clean rice.

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Dextrose in washings, 0.05 per cent; equivalent to glucose, 0.10 per cent; total ash from washing, 0.04 per cent; ash insoluble in N/10 hydrochloric acid, 0.01 per cent; the crystalline character of talc was recognized under microscope. Misbranding of the product was alleged in the information for the reason that it was sold and shipped as clean rice, whereas, in truth and in fact, it was gleanings of rice, or broken rice, which had been coated with at least 0.1 per cent glucose and 0.01 per cent mineral matter of the nature of talc, making it as shipped a mixture of rice, glucose, and talc, in imitation of clean rice.

On March 7, 1913, the defendant company entered a plea of guilty to the information, and on March 24, 1913, the court imposed a fine of $100 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2898. Adulteration and misbranding of ginger cordial. U. S. v. Fleishmann-Clarke Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4396. I. S. No. 12482-d.)

On April 4, 1913, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Fleishmann-Clarke Co., a corporation organized under the laws of the State of Ohio, doing business at San Francisco, Cal., alleging shipment by said company, in violation of the Food and Drugs Act, on or about October 18, 1911, from the State of California into the then Territory, now State, of New Mexico, of a quantity of ginger cordial which was adulterated and misbranded. The product was labeled: "The Fleishmann Clarke Co. Superior Quality Cordials New York, Peoria, Cincinnati, San Francisco Ginger."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity, 15.6°C/15.6°C	1.0702
Alcohol (per cent by volume)	29.75
Solids by drying (grams per 100 cc)	25.15
Ginger, Seeker test	Positive.
Capsicum, Le Wall Nelson test	Positive.

Adulteration of the product was alleged in the information for the reason that it purported to be a ginger cordial, whereas, in fact, a substance, to wit, capsicum, had been substituted wholly and in part for said ginger. Misbranding was alleged for the reason that the statement "Cordials-Ginger," borne on the label, was false and misleading because it led the purchaser to believe that the product was a ginger cordial, whereas, in truth and in fact, it was a ginger cordial containing capsicum.

On August 4, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2899. Adulteration and misbranding of extract of peppermint. U. S. v. Sherwood & Sherwood Commercial Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4399. I. S. No. 18111-d.)

On April 4, 1913, the United States attorney for the southern district of California, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against the Sherwood & Sherwood Commercial Co., a corporation, Los Angeles, Cal., alleging shipment by said company in violation of the Food and Drugs Act, on or about October 18, 1911, from the State of California into the State of Arizona of a quantity of extract of peppermint which was adulterated and misbranded. The product was labeled: "Extract of Peppermint, Artificially Colored. Bottled by Golden State Wine Co., 271 S. Main St., Los Angeles, Cal."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Specific gravity, 15.6°C./15.6°C., 0.9375; alcohol (per cent by volume), 48.52; oil of peppermint, absent; odor indicates trace of oil of spearmint; color, Light Green SF Yellowish. Adulteration of the product was alleged in the information for the reason that it was labeled "Extract of Peppermint," and another substance, to wit, a dilute solution of alcohol containing only a trace, if any, of oil of peppermint, had been mixed and packed therewith in such a manner as to reduce and lower and injuriously affect its quality and strength; and further, for the reason that the product was labeled "Extract of Peppermint," and another substance, to wit, a dilute solution of alcohol containing only a trace, if any, of oil of peppermint, had been substituted wholly or in part therefor. Misbranding was alleged for the reason that the product was labeled and branded "Extract of Peppermint," which was false and misleading in that it would lead a purchaser to believe that it was genuine extract of peppermint conforming to the standard for such article, when, as a matter of fact, it was a dilute solution of alcohol containing only a trace, if any, of oil of peppermint, artificially colored.

On June 30, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2900. Adulteration and misbranding of oil of lavender flowers. U. S. v. Brunswig Drug Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4404. I. S. No. 3577-d.)

On April 4, 1913, the United States attorney for the southern district of California, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information aganist the Brunswig Drug Co., a corporation, Los Angeles, Cal., alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 11, 1911, from the State of California into the State of Arizona, of a quantity of oil of lavender flowers which was adulterated and misbranded. The product was labeled: "Oil of Lavender (Oil Lavender Flowers) Specific Gravity .907 Optical Rotation .37 Linalyl Acetate Guaranteed *** No. 276 G. Brunswig Drug Co. *** Los Angeles ***."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity at 25° C	0.913
Optical rotation at 20° C	−2.45
Index of refraction at 20° C	1.463
Esters as linalyl acetate (grams per 100 cc)	25.6
Acidity (cc N/10 alkali per 100 cc)	21
Solubility in 70 per cent alcohol, O.K.; alcohol	Absent.

Adulteration of the product was alleged in the information for the reason that it was sold under a name recognized in the United States Pharmacopœia, to wit, "Oil of Lavender," and it differed from the standard of strength quality, and purity for oil of

lavender as determined by the tests laid down in said Pharmacopœia official at the time of investigation, in that said Pharmacopœia requires that oil of lavender flowers should have a specific gravity of not less than 0.875 nor greater than 0.910 at 25° C., whereas the product had a specific gravity of 0.913 at 25° C., and contained esters of glycerin, and the real standard of strength, quality, and purity of the product was not stated on the bottle in which it was offered for sale.

Misbranding was alleged for the reason that the statement "oil of lavender" borne on the label was false and misleading in that it created the impression that said product was a pure oil of lavender, when, in truth and in fact, it was oil of lavender containing esters of glycerin.

On May 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2901. Adulteration of frozen egg product. U. S. v. Isaac W. Bickley. Plea of non vult contendere. Fine, $50 and costs. (F. & D. No. 4418. I. S. No. 1700-d.)

On June 18, 1913, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Isaac W. Bickley, trading as A. F. Bickley & Son, a corporation, Philadelphia, Pa., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about November 27, 1911, from the State of Pennsylvania into the State of New Jersey, of a quantity of frozen egg product which was adulterated. The product was labeled on tags: "48." "F 34335. From Delaware Storage & Freezing Co. Cold Storage and Ice 402–410 N. N American Street. Sharp Freezing a specialty. Philadelphia, Pa."

Bacteriological examination of a sample of the product was made by the Bureau of Chemistry of this department with the following results: Organisms per gram on plain agar after 5 days: At 25° C., 130,000,000, 140,000,000, 70,000,000, 200,000,000, 90,000,000, 90,000,000; at 37° C., 30,000,000, 60,000,000, 30,000,000, 27,000,000, 130,000,000, 70,000,000; 100,000,000 *B. coli* group per gram; 10,000,000 streptococci per gram. These results show the sample to consist wholly or in part of a filthy, putrid, or decomposed animal substance. Adulteration of the product was alleged in the information for the reason that it consisted in part of a filthy, decomposed animal substance.

On June 18, 1913, the defendant entered a plea of non vult contendere to the information and the court imposed a fine of $50 and costs of $12.05.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2902. Misbranding of port wine. U. S. v. A. Graf Distilling Co Plea of guilty. Fine, $5 and costs. (F. & D. No. 4423. I. S. No. 17303-d.)

On June 13, 1913, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the A. Graf Distilling Co., a corporation, St. Louis, Mo., alleging shipment by said company in violation of the Food and Drugs Act, on or about January 9, 1912, from the State of Missouri into the State of Illinois, of a quantity of port wine which was misbranded. The product was labeled: "10 Gals. Port Wine. Frank H. Meyer, Decatur, Illinois."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Alcohol (per cent)	19.65
Solids (per cent)	11.92
Nonsugar solids (per cent)	3.11
Reducing sugars before inversion (per cent)	8.81
Polarization, direct, at 26°C (°V.)	5.5

Invert, at 26°C (°V.)	5.8
Sucrose (Clerget)	None.
Ash (per cent)	0.32
Water-soluble ash (per cent)	0.26
Water-insoluble ash (per cent)	0.06
Alkalinity of soluble ash (cc N/10 acid per 100 grams)	0.22
Total tartrates (grams per 100 cc)	0.05
Total P_2O_5 (mg per 100 grams)	50.2

Misbranding of the product was alleged in the information for the reason that the statements and words "Port Wine," so appearing on the label and upon the keg, were false and misleading because they misled and deceived the purchaser into the belief that the product was genuine port wine—that is to say, a product of Portugal—whereas, in truth and in fact, it was not a genuine port wine nor a product of Portugal, but was a domestic article and product; and was further misbranded in that it purported to be a foreign product, when it was not, and the words and statement "Port Wine," appearing on the label thereof, conveyed the impression that the product was a product of Portugal, when, in truth and in fact, it was a product of the United States.

On July 10, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $5 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2903. Adulteration and misbranding of turpentine. U. S. v. George J. Fox (Carolina Pine Products Co.). Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 4432. I. S. No. 3479-d.)

On January 20, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against George J. Fox, trading as the Carolina Pine Products Co., Cleveland, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about November 18, 1911, from the State of Ohio into the State of Missouri, of a quantity of turpentine, which was adulterated and misbranded. The product was labeled: (On one end of barrel) "St. Louis Transfer Co., St. Louis, Mo. St. Louis Co. For % Carolina Pine Products Co., Gross 407, Tare 60." (Other end) "Carolina Pine Products Co., St. Louis. Turpentine. S. L. Not for medicinal use. The standard of quality and purity of the turpentine contained in this package is guaranteed and sold in accordance with the following chemical analysis: Specific gravity, 862 or 32½° B.; distillation percentage under 300° F., none; distillation percentage under 363° F., 80 to 90 per cent; percentage unpolymerizable, 25 to 35 per cent; flash point, 100° F. Warning: This label must be defaced or destroyed before this package is again used. Any disregard of this warning will be prosecuted to the full extent of the law. Carolina Pine Products Co."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Unpolymerized oil (per cent)	29.6
Refractive index of oil at 20° C	1.442
Mineral oil present (per cent) not less than	.30

Adulteration of the product was alleged in the information for the reason that it was sold under and by a name recognized in the United States Pharmacopœia official at the time of the investigation, and it differed from the standard of strength, quality, and purity as determined by the test laid down in said Pharmacopœia in that it contained a large proportion of mineral oil, and neither was its own standard of strength, quality, or purity plainly stated upon the container. Misbranding was alleged for the reason that the statement on the label, "Turpentine," was false and misleading, as the product was not turpentine, but a mixture of turpentine and mineral oil.

On May 21, 1913, the defendant entered a plea of nolo contendere to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2904. Misbranding of maple sirup. U. S. v. Five Cases So-called Maple Syrup. Decree of condemnation by default. Product ordered sold. (F. & D. No. 4434. S. No. 1482.)

On August 19, 1912, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district a libel for the seizure and condemnation of five cases of so-called maple sirup remaining unsold in the original unbroken packages at Central Wharf, Boston, Mass., alleging that the product had been shipped by Dugue & Co., New Orleans, La., and transported from the State of Louisiana into the State of Massachusetts, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Du-Gay Yankee Doodle Maple Syrup. Packed by Dugue & Co., Incorporated. New Orleans, La., U. S. A. Made of Purest Sugar Cane Juice. Imitation Maple Flavor. Contains sulphur dioxide. Wholesome. Digestible. Nutritious. Packed for Fancy Family Trade."

Misbranding of the product was alleged in the libel for the reason that certain retail packages of said product bore a statement, design, and device regarding the ingredients and substances contained in the food, that is to say, the words "Du-Gay Yankee Doodle Maple Syrup," printed in a conspicuous manner upon each of the retail packages and labels, and the words "Made of Purest Sugar Cane Juice. Imitation Maple Flavor," printed in an inconspicuous manner upon each of the retail packages and labels, which said statement, design, and device was false and misleading in that it would lead a purchaser to believe that the food was a product known to the trade as maple sirup, whereas, in truth and in fact, said food was not such a product.

On November 5, 1912, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be sold by the United States marshal after striking out the word "maple" wherever it appeared on the label.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2905. Adulteration and misbranding of mincemeat. U. S. v. W. H. Marvin Co. Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 4473. I. S. No. 17433-d.)

On November 8, 1912, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the W. H. Marvin Co., a corporation, Urbana, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on September 21, 1911, from the State of Ohio into the State of Iowa, of a quantity of so-called mincemeat which was adulterated and misbranded. The product was labeled: " 'Mistle' Oak Brand (picture of oak tree) Mincemeat—Bohart & Co., Distributers, Clinton, Iowa. Fruit Pudding * * * Guarantee—This Mince Meat is guaranteed to meet the requirements of the National Pure Food Law enacted June 30, 1906, and is composed of the following articles: Meat, Raisins, Currants, Apples Sugar, Salt, Spices, and fruit juices. The meat contained herein has been inspected and passed at an establishment where Federal inspection is maintained."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Approximately 0.1 per cent of meat present; no suet found. Adulteration of the product was alleged in the information for the reason that a certain substance, to wit, a food product containing but a trace of meat, that is to say, 0.1 per cent of meat, was substituted for what the article of food, by its label and brand, purported to be, namely, mincemeat containing a substantial amount of meat. Misbranding was alleged for the reasons: (1) That the label and brand on the product bore statements regarding it and the ingredients and substances contained therein, which

said statements, to wit, "Mincemeat," "meat * * *," and "The meat contained herein has been inspected and passed at an establishment where Federal inspection is maintained," were false, misleading, and deceptive in that said statements purported and represented the product to be a mincemeat containing a substantial proportion of meat, whereas in truth and in fact it contained but a trace of meat, namely, 0.1 per cent; (2) that the product was labeled and branded as set forth above so as to deceive and mislead the purchaser, in that the label and brand was calculated and intended to convey the impression and create the belief that the product was an article containing a substantial amount of meat, whereas in truth and in fact it did not contain a substantial amount of meat, but contained only a trace of meat, namely, 0.1 per cent.

On October 28, 1913, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of $25 and costs, amounting to $14.60.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2906. Adulteration and misbranding of tomato catsup. U. S. v. Otto Kuehne Preserving Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 4480. I. S. No. 14374-d.)

On March 3, 1913, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Otto Kuehne Preserving Co., a corporation, Topeka, Kans., alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 24, 1911, from the State of Kansas into the State of Nebraska, of a quantity of so-called tomato catsup which was adulterated and misbranded. The product was labeled: "Green Leaf Brand" (Design—green leaf) "Trade mark Reg. Vegetable Catsup. Contains not to exceed 1/10 of 1% Benzoate of Soda and coloring added. Packed by Otto Kuehne Preserving Co., Topeka, Kans."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Artificially colored with a coal-tar dye, namely, Cochineal Red A, Schulz and Julius No. 106. Adulteration of the product was alleged in the information for the reason that it was composed wholly or in part of pumpkin and apple, colored with a coal-tar dye known as "Cochineal Red," prepared in imitation of tomato catsup. Adulteration was alleged for the further reason that the so-called tomato catsup was not prepared or composed of sound product made from properly prepared pulp of clean, sound, ripe tomatoes with spices and the permitted preservatives. Misbranding was alleged for the reason that the statement "Vegetable Catsup," borne on the label of each of the bottles in which the product was sold, was false and misleading because the word "Vegetable" was so inconspicuously displayed that it failed to attract the attention of the reader, and further, that the word "Catsup" was so conspicuously displayed as to convey to the reader or purchaser the impression that the product was tomato catsup, as such product is known to the general trade and public, when in truth and in fact it was not catsup or tomato catsup, but was a product composed wholly or in part of pumpkin and apple artificially colored with coal-tar dye to simulate the appearance of tomato catsup, and was therefore misbranded. Misbranding was alleged for the further reason that the product was an imitation of tomato catsup and was offered for sale and sold under the distinctive name of that article, and further, that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was tomato catsup, the word "Catsup" being in large, conspicuous type, and the word "Vegetable" being in small, inconspicuous type, which form of labeling and branding conveyed to the purchaser the impression that the product was tomato catsup, whereas in truth and in fact it was not tomato catsup, but was a product consisting in whole or in part of pumpkin and apple, artificially colored and prepared in imitation of tomato catsup.

On April 19,1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2907. Adulteration and misbranding of tonka and vanilla extract. U. S. v. Russell W. Snyder. Plea of guilty. Fine, $50. (F. & D. No. 4490. I. S. No. 19324-d.)

On January 4, 1913, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Russell W. Snyder, Battle Creek, Mich., alleging shipment by said defendant, on April 5, 1912, from the State of Michigan into the State of Iowa, of a quantity of tonka and vanilla extract which was adulterated and misbranded. The product was labeled: "Superior Extracts. Snyder's Superior Extracts. (Portrait) For Flavoring Ice Cream, Jellies, Pastry, Custards, &c. Tonka and Vanilla. R. W. Snyder, Battle Creek, Mich. Guaranteed under the Food and Drug Act June 30th, '06. Serial No. 3554."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity at 20° C	1.014
Solids (grams per 100 cc)	18.3
Alcohol (per cent by volume)	40.0
Vanillin (grams per 100 cc)	0.86
Coumarin (grams per 100 cc)	0.07
Lead number	0.44
Color removed with amyl alcohol (per cent)	91.00
Color value, original extract (Yellow 52)	140
Color value after precipitation with lead	8.6

Adulteration of the product was alleged in the information for the reason that a substance had been mixed and packed with it so as to reduce and lower and injuriously affect its quality and strength, and, further, that a substance had been substituted wholly and in part for the product, to wit, artificial vanillin. Misbranding was alleged for the reason that the statement borne on the label, to wit, "Superior Extracts. Tonka and Vanilla," was false and misleading, such statement being such as to mislead and deceive the purchaser into the belief and to create the impression in the minds of purchasers that the product was really superior extracts, tonka, and vanilla, whereas, in truth and in fact, said product, so labeled and branded, was an extract of tonka and vanilla containing, to wit, artificial vanillin. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser thereof, it being labeled, "Superior Extracts, Tonka and Vanilla," when, as a matter of fact, an analysis of the product showed that it was an extract of tonka and vanilla, containing, to wit, artificial vanillin.

On January 7, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $50.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2908. Misbranding of coffee. U. S. v. 300 Pounds of Coffee. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 4502. S. No. 1501.)

On September 12, 1912, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 16 pails containing 300 pounds of coffee remaining unsold in the original unbroken packages and in possession of J. Levi & Co., Schenectady, N. Y., alleging that the product had been shipped on or about October 13, 1911, and January 12, 1912, by W. F. Johnson & Co., Boston, Mass., and transported from the State of Massachusetts into the State of New York, and charging misbranding in violation of the Food and Drugs Act. The eight pails shipped October 13, 1911, were labeled, "Boston Roast Arabian Moca finest quality. Imported, roasted and packed expressly for J. Levi & Co., wholesale grocers, Schenectady, N. Y." The eight pails shipped January 12, 1912,

were labeled, "Boston Roast Old Government Java finest quality. Imported, roasted and packed expressly for J. Levi & Co., wholesale grocers, Schenectady, N. Y."

Misbranding of the product was alleged in the libel for the reason that the labels and the representations and statements contained thereon were false and misleading, and intended and calculated by the said W. F. Johnson & Co. and the said J. Levi & Co., as they well knew, to deceive, in that said so-called "Boston Roast Arabian Moca finest quality. Imported," was not Arabian Moca coffee, but consisted almost entirely of Santos coffee, and was without any appreciable quantity of Moca contained therein, and the so-called "Boston Roast Old Government Java finest quality imported," was not "Java" coffee, nor was it coffee formerly known by the trade as "Old Government Java," neither was it of the finest quality imported, in that it was a very poor grade of "Bogota."

On December 10, 1912, the said J. Levi & Co., claimant, having stipulated that the allegations in the libel were true, judgment of condemnation and forfeiture was entered, the court finding the product misbranded, but not adulterated, poisonous, or deleterious to health. It was ordered by the court that the product should be redelivered to said claimant upon payment of the costs of the proceedings, amounting to $20.57, and the execution of bond in the sum of $100 in conformity with section 10 of the act. B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2909. Misbranding of pears. U. S. v. 100 Cases of Canned Pears. Product released on bond. (F. & D. No. 4510. S. No. 1504.)

On September 14, 1912, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district a libel for the seizure and condemnation of 100 cases, each containing 24 cans of so-called pears remaining unsold in the original unbroken packages and in possession of Jett & Wood, Wichita, Kans., alleging that the product had been shipped on or about July 5, 1912, by J. Langrall & Bro., Baltimore, Md., and transported from the State of Maryland into the State of Kansas, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: (On cases) "2 Doz. No. 3 Maryland Chief Brand Choice Pears. Packed by J. Langrall & Bro., Inc., Baltimore, Md." (Stencil on side) "Western, Wichita, Kansas." (On cans) "Maryland Chief Choice Pears First Quality Packed by J. Langrall & Bro. Incorporated, Baltimore, Md. In Heavy Syrup" (design of Indian head and a pear).

Misbranding of the product was alleged in the libel for the reason that the label on each of the cases was false and misleading and calculated to mislead and deceive the purchaser into the belief that each of the cases contained choice pears, when, in truth and in fact, they contained pears of an inferior quality and not choice pears, as stated in the label on each of the cases. Misbranding was alleged for the further reason that the label on the outside of each can was such as to mislead and deceive the purchaser into the belief that each of the cans contained choice pears of the first quality, when, in truth and in fact, each of said cans contained inferior pears wholly or in part in small pieces with patches of skin and knots remaining, a portion of which said pieces were either over or under ripe; and, further, in that the label upon the outside of each can was such as to mislead and deceive the purchaser into the belief that each can contained choice pears that were packed or preserved in heavy sirup, when, in truth and in fact, the so-called pears were not packed in heavy sirup, but in sirup that showed only a total solid content of 4.86 per cent; and, further, said pears were packed or preserved in a liquor that was too sour, so as to be unfit for eating without added sugar, and each of the cans contained 48 per cent of liquor, which was more than was necessary for thorough preservation and sterilization.

On December 5, 1912, the said J. Langrall & Bro., claimants, having consented thereto, it was ordered by the court that the product should be released and delivered to said claimants upon payment of all the costs of the proceedings and the execution of bond in the sum of $500, in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2910. Misbranding of Allasch style kümmel. U. S. v. Loewenthal-Strauss Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4514. I. S. No. 19069-d.)

On September 27, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against the Loewenthal-Strauss Co., a corporation, Cleveland, Ohio, alleging shipment by said company, on or about October 21, 1911, from the State of Ohio into the State of Pennsylvania, of a quantity of so-called "Allash Style Kummel," which was misbranded. The product was labeled: "Quartre Premieres Medailles des Expositions Internationales Creme D'Allasch Vitam Excoevere per Artes. Melbourne International Exhibition MDCCCXXX Allasch Style Kümel." (Other part of label in Greek.)

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Alcohol (per cent by volume)	39.40
Methyl alcohol	None.
Solids (grams per 100 cc)	9.59
Nonsugar solids	Practically none.
Sucrose (grams per 100 cc)	9.57
Reducing sugars direct (grams per 100 cc)	0.05
Polarizations, normal weight, dealcoholized sample:	
At 20° C. direct (°V.)	+9.2
At 20° C. invert (°V.)	−3.1
At 87° C. invert (°V.)	0.0
Ash (grams per 100 cc)	0.012
Total acid	Neutral.

Misbranding of the product was alleged in the information for the reason that the statements in foreign languages, together with the designs borne on the label, were false and misleading because they conveyed the impression that the product was a foreign article, whereas, in truth and in fact, it was a domestic product. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, the foreign words, together with the design used on the label, being such as to convey the impression that the product was a foreign article, when, as a matter of fact, it was a domestic article; and for the further reason that it purported to be a foreign product when not so.

On October 18, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2911. Misbranding of grape brandy. U. S. v. The Nectar Co. Plea of guilty. Fine, $50. (F. & D. No. 4515. I. S. No. 15334-d.)

On March 7, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against The Nectar Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on January 26, 1912, from the State of New York into the State of Connecticut, of a quantity of grape brandy which was misbranded. The product was labeled: "The Nectar Co. Casagallo—Marca di Fabrica—Grappa di

Piemonte Grape Brandy—a compound—Guaranteed under the Food and Drugs Act, June 30, 1906. Serial No. 26497."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Solids (parts per 100,000 100° proof)	8.11
Acidity as acetic (parts per 100,000 100° proof)	7.6
Esters as ethyl acetate (parts per 100,000, 100° proof)	85.7
Color	Colorless.
Proof (degrees)	98.6
Higher alcohols as amyl alcohol (parts per 100,000, 100° proof)	33.0

Misbranding of the product was alleged in the information for the reason that it was labeled as set forth above so as to deceive and mislead the purchaser thereof, in that the label would indicate that the article was a grape brandy, whereas, in truth and in fact, it was not a grape brandy, but was a compound of grape brandy and grain spirits, and the label would also indicate that the article was a product of a foreign country, to wit, Italy, whereas, in truth and in fact, it was a product of the United States; and it was further misbranded in that it purported to be a foreign product, to wit, a product of Italy, whereas, in truth and in fact, it was a product of the United States.

On November 10, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $50.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2912. Misbranding of bitters. U. S. v. The Nectar Co. Plea of guilty. Fine, $25. (F. & D. No. 4516. I. S. No. 15333-d.)

On March 7, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against The Nectar Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on January 26, 1912, from the State of New York into the State of Connecticut, of a quantity of bitters which was misbranded. The product was labeled in Italian, and a translation of said label into the English language is as follows: "Specialty NC of the firm. Felsina Bitters The Nectar Co. C. C. C. Casagallo. Felsina Bitters of the firm of Gallo. Digestive-Reconstructive-Tonic."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the presence of 25.2 per cent of alcohol by volume. Misbranding of the product was alleged in the information for the reason that it failed to bear a statement on the package thereof of the quantity or proportion of alcohol contained therein, whereas, in truth and in fact, alcohol was one of the ingredients of said drug. Misbranding was alleged for the further reason that the aforesaid label regarding the drug and the ingredients and substances contained therein was false and misleading, in that said label would indicate that the product was imported from a foreign country, to wit, Italy, whereas, in truth and in fact, it was prepared and manufactured in the United States.

On November 10, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2913. Misbranding of vodka. U. S. v. Four Cases of Vodka. Decree of condemnation by default. Product ordered sold. (F. & D. No. 4518. S. No. 1506.)

On September 13, 1912, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of four cases containing 240 bottles of vodka remaining unsold in the original, un-

broken packages, and in the possession of the John Barth Co., Milwaukee, Wis., alleging that the product had been shipped by W. Cohn and the Russian Monople Co., Brooklyn, N. Y., on August 31, 1912, and transported in interstate commerce from the State of New York into the State of Wisconsin, and charging misbranding and violation of the Food and Drugs Act. The product was labeled: "Monople Vodka. Made and Bottled in the Russian Monople." There was also on the product a label in Russian which, being translated, was of the following purport: "Belonging to the Crown—Rectified Spirits."

Misbranding of the product was alleged in the libel for the reason that it bore certain representations and statements regarding it and the ingredients and substances contained therein which were false and misleading; that among these false and misleading statements was the following, to wit, the statement "Monople Vodka. Made and Bottled in Russian Monople" appearing on the label, which was calculated to convey the impression and deceive the public into the belief and cause and lead buyers and consumers thereof to believe that said product was a whisky or vodka of Russian origin, made, manufactured, and prepared in Russia, whereas, in truth and in fact, said whisky or vodka constituting and composing the product was not of Russian origin or made, manufactured, or prepared in Russia, but was made, manufactured, and prepared in the United States of America.

On June 12, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be sold by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2914. Alleged misbranding of gins. U. S. v. Alexander M. Finlayson et al. (London Wine & Spirit Co.). Counts 1 and 2 of information nolle prossed. Tried to a jury on count 3. Verdict, not guilty. (F. & D. No. 4522. I. S. Nos. 13191-d, 13193-d.)

On April 22, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in three counts against Alexander M. Finlayson, George H. Armstrong, and Etta E. Parish, doing business under the name and style of London Wine & Spirit Co., New York, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, on June 30, 1911, from the State of New York into the State of Massachusetts, of a quantity of two brands of gin which was misbranded. The first brand of gin was labeled: "London Superior Sloe Colored Club Gin. None genuine unless bearing signature on each label. All shipments of this gin are made in bottles only packed in straw envelopes and all capsules have our signature diagonally upon them. London Wine & Spirit Co. New York, Distillers Sloe Gin, a very delicious liquor distilled from the pure fruit."

Analysis of a sample of this product by the Bureau of Chemistry of this department showed the following results:

Artificial color: Amaranth S. & J. No. 107.	
Free mineral acids	Negative.
Extract (grams per 100 cc)	14.76
Lead precipitate	Heavy.
Ash (grams per 100 cc)	0.0834
Alkalinity of ash (cc N/10 acid per 100 cc)	1.2
Polarizations:	
Direct at 20° C. (°V.)	2.7
Invert at 20° C. (°V.)	3.8
Sucrose (Clerget) (per cent)	0.83
Invert sugar (calculated) (per cent)	11.50

It was also ascertained in connection with the examination of this product that it was manufactured in the United States. Misbranding of the product was alleged in

the first count of the information for the reason that it purported to be a foreign product, to wit, a product of England, when it was not so, but was a product of the United States, and further, in that the statements, designs, and devices on the label thereof regarding the article and the ingredients and substances contained therein were false and misleading, and said label was calculated to mislead and deceive the purchaser thereof in that it would indicate that the article was a foreign product, to wit, a product of England, when it was not so, but was a product of the United States. Misbranding was alleged in the second count of the information for the further reason that the statements, designs, and devices on the label thereof regarding the article and the ingredients and substances contained therein were false and misleading, and said label was calculated to deceive and mislead the purchaser thereof in that it would indicate that the article was a gin manufactured or produced in London, England, containing the natural color of sloe berries, whereas, in truth and in fact, it was a product manufactured in the United States and was artificially colored with a coal-tar dye.

The second brand of gin was labeled: "Genuine Hollands Geneva Gin. Deer's Head Brand. Distilled by London Wine & Spirit Co. New York. Deer's Head Brand is the finest type of pure and well matured gin."

Examination of a sample of this product by the said Bureau of Chemistry indicated that it was manufactured in the United States. Misbranding of this product was alleged in the third count of the information for the reason that it purported to be a foreign product, to wit, a product of Holland, when it was not so, but was a product of the United States, and further, in that the statements, designs, and devices on the label thereof were false and misleading and calculated to deceive and mislead the purchaser thereof in that said label would indicate that the article was a product manufactured or produced in Holland, whereas, in truth and in fact, it was a product manufactured and produced in the United States, and was further misbranded in that it was an imitation of genuine Hollands Geneva gin and was offered for sale under the distinctive name of that article, whereas, in truth and in fact, it was not genuine Hollands Geneva gin, but was a different article.

On October 23, 1913, the defendants having been brought to trial before the court and a jury on the third count of the information charging misbranding of "Genuine Hollands Geneva Gin," after the submission of evidence and argument by counsel, the following charge was delivered to the jury by the court (Mayer, *J.*):

This question before you is apparently an important one, and the case deserves and I have no doubt will receive at your hands very careful and deliberate attention, and I am about to endeavor to instruct you as to the law with considerable care, so that the real issues in the case may be entirely clear to you, and that in such discussion as you may indulge in in the secrecy of the jury room, you may not be led off into subject-matter unrelated to and irrevelant to the issue that you must determine.

At the outset you must dismiss from your minds an impression, if such should perhaps exist—and I feel quite confident that it does not—as to a controversy in this case between different classes of merchants.

This is not a case where these defendants are on trial for some encroachment on a label of another person in the same general line of business. If these defendants or any other persons, at any time, put out goods in some manner that another merchant feels is unfair to him, such question is to be decided in another tribunal, and at another time, and in a proper proceeding, because the case here is a criminal prosecution, specifically brought under a particular statute, whose language, so far as applicable here, will, I am sure, appear very clear and very simple to you.

You will not, I am sure, entertain any prejudice or impression, whatever your individual line of business may be, either for or against importers, or for or against domestic manufacturers, because that is not the question in this case. Nor is there any question here before you of trade competition. Every man living in this country, whether he is engaged in the importation of goods, or in the domestic handling of goods, is entitled to compete fairly with other men in the same line of business and along lines sanctioned by the law.

The sole question that you have to determine is a question of fact which I shall state to you in a few moments, and that question of fact, so far as you are concerned, comes as I have said on several occasions throughout this trial, within a narrow scope.

In this class of cases, the proceeding being of a criminal nature, it is begun usually by what is known as an information, which, to all intents and purposes, has the effect of an indictment. There were more counts in this information than are before you now, but only the last or third count is for you to consider, and I say that so that if you should have occasion to look at the indictment you will not read or pay any attention to the first and second counts.

The third count is brief, and so far as it is relevant I will read it.

It charges that in this jurisdiction the defendants, who are Mr. Finlayson, Mr. Armstrong, and Etta E. Harris, doing business under the name and style of London Wine & Spirit Company, made an interstate shipment of a certain article of food in a bottle labeled as follows—and then follows the label that you have seen and with which you are familiar—"which said article shipped as aforesaid, was misbranded in that it purported to be a foreign product, to wit, a product of Holland, when it was not so, but was a product of the United States. And the said article was further misbranded, in that the statement, design, and device on the label thereof were false and misleading and calculated to deceive and mislead the purchaser thereof, in that said label would indicate that the said article was a product manufactured or produced in Holland, whereas, in truth and in fact, the said article was an article manufactured and produced in the United States, and that said article was further misbranded, in that it was an imitation of genuine Hollands Geneva Gin, and was offered for sale under the distinctive name of that article, whereas, in truth and in fact, the said article was not genuine Hollands Geneva Gin, but was a different article."

Now the statute under which this information is laid reads as follows, so far as here applicable.

"That the term 'misbranded,' as used herein, shall apply to all drugs or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced."

And then the statute goes on, that for the purposes of this act an article shall also be deemed to be misbranded if it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so.

When Congress passed this act it also passed in the act a provision allowing the Department of Agriculture to make rules and regulations, in accordance with the act, which when made should have the force of law, and so there is this regulation, which has the force of law, and which is applicable to this case, and upon which this case will practically turn. "The use of a geographical name in connection with a food or drug product will not be deemed a misbranding when by reason of long usage it has come to represent a generic term, and is used to indicate the style, type, or brand, but in all such cases, the State or Territory where any such article is manufactured or produced shall be stated upon the principal label."

The authorities recognize what many of us knew in one way or the other, that long usage has at times transformed a geographical name into a name that does not designate, necessarily, the place from which the article comes, but designates the style or type or brand of the article, and the further fact that this regulation was made by these experienced men in departmental work, doubtless—when I say "men" by "men" I mean, of course, always by the head of the department, but doubtless upon the advice and investigation of the subordinates under him—the very fact that such a regulation was made is in itself a recognition of the proposition that there are cases where the original meaning of the word has been added to, so that the word has a larger or more comprehensive meaning than it had originally.

"Generic" is a simple word, with which I think you are all familiar. It may be defined, I suppose, as meaning a class, as distinct from "specific," which might mean a particular member of a class, and when it is used in this regulation, which I have just read, in connection with the word "term," so as to create the phrase "a generic term," that word "generic" means a class. "A generic term" means the description of a class of product.

If I have made the simple words of this act clear, and the words of this regulation clear, then we may go on to consider what is the issue before you.

If, as a fact, you believe that the words "Holland" or "Hollands Gin" or "Hollands Geneva Gin" have acquired this generic meaning, so that they are no longer confined to a description of the place from which the gin comes, then the defendants are entitled to an acquittal at your hands, without any further consideration upon your part.

If you believe that those words include domestic gin of the Holland flavor and type, then the use of the word "Genuine" in this label does not add anything to the Government's position in the case. If that be your construction of the facts in the case, then

"Genuine" may be construed as meaning a gin of the Holland taste or type, as distinctive from the other kinds of gin. To wit, the English gins, such as Tom, Dry, and Sloe Gin.

There is no definition of what "long usage" is. Those words are elastic, because you can readily see that there are certain kinds of products known in our commercial life which have been known for a considerable time; there are other kinds of products which have been known only a very short time, and the words "long usage" are a good deal like the word "reasonable"; they change with time and circumstances and the developments of a complex civilization. You are to determine. I am not going to define "long usage," because I can not do it. You are to determine upon the facts of this case whether the usage that has been testified to may fairly be said to be a "long usage."

The evidence in the case shows that so far as these defendants are concerned they have used this particular label for a matter of, I think, at least seventeen years, excepting, perhaps, the lower part, and that they have used for some fifteen years, so that their use of this term preceded the Food and Drugs Act.

You have also the testimony of other domestic manufacturers as to usage for a considerable number of years.

Have these gentlemen who put out domestic gin under this designation done so fairly and honestly, with no attempt at deception, and in such a manner as to create in the mind of the purchaser the idea that when he asks for a Holland gin he is asking for a gin of a flavor and a taste different from the other kinds of gin?

We are not at all concerned with what the importer thinks about it or what the domestic manufacturer thinks about it. We are concerned to determine whether, on all the evidence in this case, the purchaser, the ordinary, sane, fair-minded man, is purchasing an article that is intended to make him think it comes from Holland, or an article which has become widely known as an article not necessarily coming from Holland, but having a taste different from the other kinds of gin.

Pretty nearly everything but the crucial question in this case is not a matter of contradiction. The defendants do not deny that there was an interstate shipment, which brings the case into this court. They admit and concede, without equivocation, that Holland gin or Hollands Geneva gin was originally the designation of gin made in Holland. They stand, as must the Government, upon the single proposition—the Government says that label means that it is intended to convince or lead any person who buys that article to believe that it was made in Holland, and the defendants say that that is not correct, that that label is intended not to mislead the public but to inform the public that the contents of that bottle are gin of a certain flavor and type, and that that gin by long usage in this country has come to be known, because of its flavor and type, as a Holland gin.

That is the question in this case, and you have got to determine it on the evidence adduced. You have heard all of these witnesses. It seemed to me, although you will exercise your judgment and not take mine, that practically every man was conscientiously giving his point of view as he understood it. One set of men having their minds very much on the imported article, the other set of men being familiar with the course and practices of this particular branch of business in this country.

It is for you to determine, and that is one of the values of sending cases of this particular class to a jury of business men drawn from various kinds of work, because you are to determine the fact in this case, which is what I have said.

But there is another rule or set of rules which apply in this case. We have had in the case the atmosphere of a civil trial. That has been the court-room atmosphere, because counsel, notwithstanding their very natural occasional controversies, are gentlemen who tried the case in courteous fashion, and the whole conduct of the case has been such to make you forget, perhaps, and at times to make the court forget, that the case is not a civil case but a criminal case, and while the penalty under this act for a first offense is not a severe penalty, yet the mere conviction is a matter of profound importance to any reputable merchant.

There is no controversy here as to the contents of this bottle being other than entirely proper. No suggestion in the information, and therefore there will be none in the evidence, that this is other than a perfectly proper domestic gin, which has been put in the bottle that contains this label, so it is not a case where you are to be diverted by any notion of a bad product being put up.

It is also entirely clear in this case that a different process is used for the manufacture or distillation of Holland gin from these other gins, and that that process has long been used in this country and is familiar to persons in the trade, and as presumably is the taste to the man who drinks gin.

So that we get back, and I am repeating myself purposely, to the sole question as to whether this Hollands gin has acquired this extra meaning, and if it has, that is the end of the Government's case, and whether it has is for you to say.

But, as I started to conclude, this is none the less a criminal case, and every man under our system is presumed to be innocent until he is proven guilty beyond a reasonable doubt, and before the Government may look for a conviction, or rather I would put it a little better, before a conviction may be had of any man informed against, or indicted, it is incumbent on the Government to prove his guilt beyond a reasonable doubt.

So that in this case your decision does not necessarily finally determine whether the defendants in some civil relationship may use this designation or not. If you entertain a reasonable doubt, such a doubt as a fair-minded man entertains in a consideration of the important affairs of his own life, then the defendants are none the less entitled to an acquittal at your hands.

Finally, I may say that in regard to the testimony in cases of this kind, it is quite usual to introduce the definitions from dictionaries, but those definitions have no greater force and very frequently not as great a force as the testimony that falls from human lips, where a witness is sworn and able to be examined and cross-examined. What you find in the dictionary is merely the conscientious definition, presumably conscientious, of learned men who have collated their information from various sources, and it has no more effect, and perhaps not as great, as the sworn words of human beings.

I think now that I have covered about all that is necessary to be said, and I hope that I have made the issue to be determined entirely clear, and I sincerely hope that you will confine your deliberations to that particular question that I have referred to under the rules that I have given you and not be misled by anything that occurred in the case to indicate that this was, perchance, a controversy between merchants of various kinds.

The Government has made a certain request to charge. I feel that I have charged sufficiently fully, and I decline to grant the Government's request.

The request last referred to reads as follows:

That it is your duty to determine whether taking the label as a *whole* it is misleading to the average purchaser in that it creates in the mind of the purchaser the impression that he is getting a gin of the Holland type produced in Holland.

Mr. Proskauer. I have one request, your honor. May I state it orally?

The Court. Yes.

Mr. Proskauer. I ask your honor to charge the jury that the words "distilled by the London Wine & Spirit Co. New York" is a fair compliance with the second provision of the section, stating that where the word has a generic meaning the label shall also contain a statement of the State where it is distilled or made.

Mr. Auchincloss. Your honor, it seems to me that is a question for the jury.

The Court. No; I think that is a question of law. I so charge.

Mr. Proskauer. In other words, your honor charges the jury that that is a fair statement that the product is made in New York.

The Court. Yes; that leaves simply the single question for the jury to determine.

Mr. Proskauer. May the jury take this exhibit in place of the label on the bottle, your honor? The label on the bottle is pretty badly rubbed.

The Court. Yes.

The jury thereupon retired and subsequently returned into court with its verdict of not guilty upon the charge of misbranding of "Genuine Hollands Geneva Gin," which was count 3 in the information. The first and second counts of the information, charging misbranding of "London Superior Sloe Gin," were nolle prossed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2915. Adulteration of baking powder. U. S. v. The Myers & Hicks Co. Plea of nolo contendere. Fine, $5. (F. & D. No. 4527. I. S. No. 19445-c.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Myers & Hicks Co., a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on April 24, 1911, from the State of Maryland into the State of North Carolina, of a quantity of baking powder which was adulterated. The product was labeled: "Ideal Baking Powder for Bakers. The Myers and Hicks Co., 104 S. Howard St., Baltimore, Md. Directions: Use 3 Ozs.—Same as if using cream of tartar and soda. Guaranteed under Serial No. 9797."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the presence of 11.3 parts per million of arsenic as As_2O_3. Adulteration of the product was alleged in the information for the reason that it contained an added poisonous ingredient, to wit, arsenic, as arsenious oxid, which might render said baking powder injurious to health.

On October 13, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $5.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2916. Misbranding of potato chips. U. S. v. Alexander A. Walter and Alfred F. Walter (Walter & Co.). Plea of guilty. Each defendant fined $12.50. (F. & D. No. 4540. I. S. No. 15341-d.)

On December 2, 1913, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Alexander A. Walter and Alfred F. Walter, doing business under the firm name of Walter & Co., Albany, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about February 3, 1912, from the State of New York into the State of Connecticut, of a quantity of so-called potato chips which were misbranded. The product was labeled: "Blue Ribbon Peptonized Potato Chips, Established 1900. Potato Chips Manufactured only by A. A. Walter & Co., Albany, N. Y. The Best you ever ate. Absolute cleanliness observed in manufacturing."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

	Per cent.
Water	4.39
Fat	36.90
Ash	3.07
Total nitrogen	0.95
Nitrogen precipitated by zinc sulphate	0.46

The potato chips had not been peptonized and no active peptonizing agent was present.

Misbranding of the product was alleged in the information for the reason that it was labeled as set forth above, and thereby said defendants held out and represented to purchasers and consumers thereof that the articles were peptonized and contained peptonizing agents and properties, whereas, in truth and in fact, said labels and the words thereon contained were false, in that the said articles were not peptonized and contained no peptonizing agents or properties whatever, and thereby said labels and the words thereon contained were misleading, in that they were calculated to deceive the purchasers of said articles of food as aforesaid.

On December 8, 1913, the defendants entered pleas of guilty to the information and the court imposed a fine of $12.50 on each defendant.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2917. Misbranding of canned peas. U. S. v. The John Boyle Co. Plea of guilty. Fine, $10. (F. & D. No. 4545. I. S. No. 17463-d.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The John Boyle Co., a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on February 19, 1912, from the State of Maryland into the State of Illinois, of a quantity of canned peas which were misbranded. The product was labeled: (On shipping case) "2 doz. Size No. 2 Lotta Brand Peas Soaked Horner Chicago."

(On cans) "Lotta Brand Peas Packed by the John Boyle Co., Baltimore, Md. Lotta Brand Peas." (In small type on side of label) "Soaked."

Examination of a sample of the product by the Bureau of Chemistry of this department showed the following results: Macroscopic examination: Peas well developed, rather hard, tasteless. Radicle prominent. Some peas boiled to pieces. Liquor milky. Microscopical examination: Starch grains and tissues of hull well matured. Evidently a soaked pea. Misbranding of the product was alleged in the information for the reason that the labels on each of the cans containing the product bore the statement in substance and effect that the product consisted of "Lotta Brand Peas," which statement was false and misleading, in that the term "Lotta Brand Peas" imported that the peas were green peas, whereas, in truth and in fact, they were not green but soaked peas. The word "soaked," although appearing on the labels, was disconnected from the word "peas," and was in such small type as to render it insufficient to correct the false impression created by the use of the word "peas." Misbranding was alleged for the further reason that the product was labeled so as to deceive and mislead the purchaser, because the labels on each of the cans containing the product bore the statement in substance and effect that the contents of the cans were "Lotta Brand Peas," which said statement was deceptive and misleading, in that the term "Lotta Brand Peas" imported that the peas were green peas, whereas, in truth and in fact, they were not green peas but soaked peas. The word "soaked," although appearing on the labels, was disconnected from the word "peas," and was in such small type as to render it insufficient to correct the false impression created by the use of the word "peas."

On October 9, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2918. Adulteration and misbranding of vermouth. U. S. v. The Nectar Co. Plea of guilty. Fine, $50. (F. & D. No. 4548. I. S. No. 13100-d.)

On March 7, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Nectar Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on December 9, 1911, from the State of New York into the State of Pennsylvania, of a quantity of vermouth which was adulterated and misbranded. The product was labeled: "Casagallo Qualita Superiore Il Verro Vermouth. Della Casagallo. Guaranteed by The Nectar Co., N. Y., under the Food and Drugs Act, June 30th, 1906, Serial No. 26497."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that it was not a genuine vermouth, for the reason that it did not consist in greater part of wine. Adulteration of the product was alleged in the information for the reason that there was substituted in part for the genuine article vermouth other substances, to wit, water and alcohol, and for the further reason that other substances, to wit, water and alcohol, were mixed and packed with the article in such a way as to reduce and lower and injuriously affect its quality and strength. Misbranding was alleged for the reason that the product was labeled as aforesaid so as to deceive and mislead the purchaser thereof, in that said label would indicate that the article was a genuine vermouth, whereas, in truth and in fact, the said article was not a genuine vermouth, but was an imitation vermouth, consisting for the most part of water and alcohol and a small amount of wine. Misbranding was alleged for the further reason that the product was an imitation of and offered for sale under the distinctive name of vermouth, whereas it was not vermouth, but was another article, to wit, an imitation of vermouth, consisting for the most part of water and alcohol,

and a little wine. Misbranding was alleged for the further reason that the article purported to be a foreign product, to wit, a product of Italy, when it was not so, but was a product of the United States.

On November 10, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $50.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2919. Adulteration of boiled cider. U. S. v. Benham & Griffith Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 4549. I. S. No. 19138-d.)

On January 27, 1913, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Benham & Griffith Co., a corporation, Spokane, Wash., alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 23, 1911, from the State of Washington into the State of Idaho, of a quantity of boiled cider which was adulterated. The product was labeled: "Boiled Cider Inland Cider and Jell. Co., Spokane, Wash."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Analysis of 20 per cent solution of sample.

Solids (grams per 100 cc)	10.12
Nonsugar solids (grams per 100 cc)	1.84
Reducing sugar as invert before inversion (grams per 100 cc)	7.44
Reducing sugar as invert after inversion (grams per 100 cc)	8.32
Sucrose by copper (grams per 100 cc)	0.84
Polarization direct 20° C. (°V.)	−16.40
Ash (nearly all soluble)	0.24
Alkalinity of water-soluble ash (cc N/10 acid per 100 cc)	26.00
Soluble phosphoric acid (mg per 100 cc)	8.00
Insoluble phosphoric acid (mg per 100 cc)	6.00
Acid total as sulphuric (grams per 100 cc)	0.33
Lead precipitate: Copious.	
Color: No evidence of added color.	
Benzoic acid as benzoate in original (undiluted) (per cent by weight)	0.065
Alcohol	Trace.

Adulteration of the product was alleged in the information for the reason that it contained, in addition to cider and as an adulteration thereof, 0.065 per cent benzoic acid as sodium benzoate, without having the presence of said benzoic acid stamped, marked, or printed upon the package or label containing said cider.

On September 30, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25, with costs of $22.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2920. Adulteration and misbranding of vanilla flavor. U. S. v. The William Haigh Co. Plea of nolo contendere. Fine, $5. (F. & D. No. 4550. I. S. No. 14924-d.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against William Haigh, doing business under the firm name and style of The William Haigh Co., Baltimore, Md., alleging shipment by said defendant, in violation of the Food and Drugs Act, on March 1, 1912, from the State of Maryland into the State of New York, of a quantity of so-called vanilla

flavor which was adulterated and misbranded. The product was labeled: "Guaranteed by The Wm. Haigh Co. under the Food and Drugs Act, June 30, 1906, serial No. 6632. The Wm. Haigh Co., 126–128 S. Calvert Street, Baltimore, Md. Special * * * Vanilla Flavor Special Flavoring for Ice Cream and Candies. Compounded of Vanilla Beans, added Vanillin, Coumarin. Highly concentrated Extracts, Fruit Juices, etc., The William Haigh Co., Manufacturing Chemists, 128 S. Calvert St., Baltimore, Md."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Vanillin (per cent)	0.20
Coumarin (per cent)	0.12
Lead number (normal)	0.32
Total solids (per cent)	8.86
Ash (per cent)	0.293
Alkalinity of ash (cc N/10 hydrochloric acid per 100 grams)	37.8
Invert sugar (per cent)	0.43
Sucrose (per cent)	3.56
Nonsugar solids (per cent)	4.87

Adulteration of the product was alleged in the information for the reason that a certain substance, to wit, an imitation of vanilla flavor, containing added vanillin and coumarin, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that a certain substance, to wit, an imitation vanilla flavor, containing added vanillin and coumarin, had been substituted in part for said article. Misbranding of the product was alleged for the reason that the labels on the packages containing the article bore a statement regarding it as follows: (In large type) "* * * Vanilla Flavor"; (in small type) "Special Flavoring for Ice Cream and Candies. Compounded of vanilla beans, added vanillin and coumarin," which said statement was false and misleading because it conveyed the impression that the article was a genuine vanilla flavor, whereas, in truth and in fact, it was not a genuine vanilla flavor, but an imitation vanilla flavor containing added vanillin and coumarin, the statement in small type "compounded of Vanilla Beans, added Vanillin and Coumarin" being insufficient to correct the false impression conveyed by the statement in large type "* * * Vanilla Flavor." Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled as set forth above, thereby conveying the false impression that it was a genuine vanilla flavor, when, in truth and in fact, it was not a genuine vanilla flavor but an imitation vanilla flavor, containing added vanillin and coumarin, the statement in small type "Compounded of Vanilla Beans, added Vanillin and Coumarin" being insufficient to correct the false impression created by the statement in large type "* * * Vanilla Flavor."

On October 9, 1913, the defendant entered a plea of nolo contendere to the information and the court imposed a fine of $5.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2921. Adulteration and misbranding of vanilla flavor. U. S. v. The William Haigh Co. Plea of nolo contendere. Fine, $5. (F. & D. No. 4551. I. S. No. 20259-d.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against William Haigh, doing business under the firm name and style of The William Haigh Co., Baltimore, Md., alleging shipment by said defendant, in violation of the Food and Drugs Act, on June 1, 1912, from the

State of Maryland into the State of Ohio, of a quantity of so-called vanilla flavor which was adulterated and misbranded. The product was labeled: "Special * * * Vanilla Flavor. Special flavoring for ice cream and candies prepared from vanilla beans, added vanillin & coumarin. lead number (in analysis for vanilla bean) approximately .23. Guaranteed by the Wm. Haigh Co. under the Food and Drugs Act, June 30, 1906, serial No. 6632. The Wm. Haigh Co., 126–128 S. Calvert Street, Baltimore, Md."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Coumarin (per cent)	0.07
Iodin test	Positive.
Vanillin (per cent)	0.20
Lead number	0.24
Total solids (per cent)	4.76
Ash (per cent)	0.22
Alkalinity of ash (cc N/10 acid per 100 grams)	29.00
Neutral to litmus	
Sugars (reducing) (per cent)	0.24
Sucrose (per cent)	3.72

Adulteration of the product was alleged in the information for the reason that a certain substance, to wit, an imitation vanilla extract, containing artificial vanillin and coumarin, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that a certain substance, to wit, an imitation vanilla extract, containing vanillin and coumarin, had been substituted in part for said article. Misbranding was alleged for the reason that each of the packages containing the article bore a certain statement (in large type) regarding it, to the effect that it was a vanilla flavor, thereby creating the impression that the article was a genuine vanilla flavor, which said statement was false and misleading in that it was not a genuine vanilla flavor, but an imitation vanilla flavor containing added vanillin and coumarin, the added statement appearing on the label to the effect that the article was prepared from vanilla beans, added vanillin and coumarin, being in very small type and insufficient to correct the false impression created by the statement that the article was "* * * Vanilla Flavor." Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled in large type "* * * Vanilla Flavor," thereby creating the impression that it was a genuine vanilla flavor, whereas, in truth and in fact, it was not a genuine vanilla flavor but was on the contrary an imitation vanilla flavor, containing added vanillin and coumarin, the following statement also appearing on the labels: "Prepared fromVanilla Beans, added Vanillin and Coumarin" being in very small type and insufficient to correct the false and misleading impression created by the statement "* * * Vanilla Flavor."

On October 9, 1913, the defendant entered a plea of nolo contendere to the information and the court imposed a fine of $5.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2922. Adulteration and misbranding of jam. U. S. v. William Numsen & Sons. Plea of guilty. Fine, $10. (F. & D. No. 4554. I. S. No. 19636–d.)

On July 18, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against William Numsen & Sons, a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and

Drugs Act, on September 9, 1911, from the State of Maryland into the State of Florida, of a quantity of so-called damson jam which was adulterated and misbranded. The product was labeled: "Clipper Damson Jam (Trade Mark) Fresh Fruit Preserved in Granulated Sugar, Glucose and Apple Juice. Packed by Wm. Numsen & Sons, Incorporated. Baltimore, Md., U. S. A. Established 1847. Registered 1879."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Solids by drying (per cent)	63.1
Sucrose, Clerget (per cent)	1.0
Reducing sugars as invert before inversion (per cent)	43.5
Commercial glucose (factor 163) (per cent)	30.0
Polarization, direct, at 28° C. (° V.)	47.2
Polarization, invert, at 28° C. (° V.)	46.0
Polarization, invert, at 87° C. (° V.)	+48.8
Ash (per cent)	0.52
Net weight (ounces)	14
Benzoic acid	None.
Salicylic acid	None.
Saccharin	None.
Boric acid	None.

Adulteration of the product was alleged in the information for the reason that a certain compound jam, to wit, a jam composed of damson fruit, granulated sugar, glucose, and apple juice, had been substituted for damson jam. Misbranding was alleged for the reason that the labels on each of the packages containing the product bore the statement in substance and effect that the article was damson jam, which said statement was false and misleading because the article was not damson jam but was, in truth and in fact, a compound jam consisting of damson fruit, granulated sugar, glucose, and apple juice. Misbranding was alleged for the further reason that the product was labeled so as to deceive and mislead the purchaser, being labeled (in large type) "Damson Jam," when, in truth and in fact, it was a compound jam composed of damson fruit, granulated sugar, glucose, and apple juice. The statement also appeared on the labels that the product consisted of "Fresh Fruit Preserved in Granulated Sugar, Glucose and Apple Juice," being separate from and in much smaller type than the words "Damson Jam" and insufficient to correct the false impression created by the use of the words "Damson Jam."

On October 9, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2923. Adulteration and misbranding of cognac. U. S. v. Serafino Piana. Plea of guilty. Fine, $400. (F. & D. No. 4559. I. S. Nos. 1684-d, 1688-d.)

On May 6, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Serafino Piana, New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on November 18, 1911, from the State of New York into the State of Pennsylvania—

(1) Of a quantity of cognac which was adulterated and misbranded. This product was labeled: (On bottles) "Trade mark S. P. * * * A. Mercier & Co. Type of Cognac. M. Desegnaulx & Co. Sole Agents for the U. S. Blended. Put up in New York 1848. Special Notice. To prevent imitations we shall wire and seal all our bottles." (On cases) "S. P. U. S. serial No. 4424. Guaranteed under the Food and Drugs Act, June 30, 1906. 12 bottles. New York. E. Mercier & Co. Cognac. Fragile."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that neutral spirits had been substituted in the product in whole or in part for cognac. Adulteration of the product was alleged in the information for the reason that a substance other than cognac, to wit, a substance consisting of alcohol, water, a small amount of brandy, and prune juice, and in fact an imitation brandy, was substituted wholly for the genuine article, cognac. Misbranding was alleged for the reason that the designs, statements, and devices on the labels of the bottles and shipping cases regarding the product were false and misleading and said labels were calculated to deceive and mislead the purchaser thereof, in that said statements, designs, and devices would indicate that the product was a genuine cognac, originating in the Cognac district of France and imported into the United States, whereas, in truth and in fact, it was not a genuine cognac, but was a product manufactured in the United States, containing neutral spirits, and was further misbranded in that it purported to be a foreign product, to wit, a product of France, when it was not such, but was a product of the United States. Misbranding was alleged for the further reason that the statement in the label on the shipping cases set forth above, regarding the product, was false and misleading, and said label was calculated to deceive and mislead the purchaser thereof, in that it would indicate that the product was guaranteed by the United States Government, whereas, in truth and in fact, it was not guaranteed by the United States Government.

(2) Of a quantity of so-called old cognac which was adulterated and misbranded. This product was labeled: (On bottles) "Cognac * * * Brandy. Trade S. P. mark, Type of Cognac Vieux Blended Put up in New York. U. S. serial No. 4424. Guaranteed under the Food and Drugs Act, June 30, 1906." (On cases) "Cognac Vieux * * * U. S. serial No. 4424. Guaranteed under the Food and Drugs Act, June 30, 1906, S. P. 12 bottles. New York."

Analysis of a sample of the product by the said Bureau of Chemistry showed that neutral spirits had been substituted in the product in whole or in part for cognac brandy. Adulteration of the product was alleged in the information for the reason that there had been substituted for the genuine article, "Cognac Vieux," another article, to wit, an imitation brandy. Misbranding of the product was alleged for the reason that the statements, designs, and devices on the labels of the bottles and shipping cases regarding the product were false and misleading and calculated to deceive and mislead the purchaser thereof, in that said labels would indicate that the product was a genuine old cognac from the Cognac district of France, whereas, in truth and in fact, it was an imitation brandy prepared and manufactured in the United States, and was further misbranded in that it purported to be a foreign product, to wit, a product of France, when it was not such, but was a domestic product. Misbranding was alleged for the further reason that the product was labeled on the shipping cases as set forth above, and said words regarding the article would indicate that it was guaranteed by the United States Government, whereas, in truth and in fact, it was not guaranteed by the United States Government.

On May 12, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $400.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2924. Adulteration and misbranding of cocoanut. U. S. v. 25 Pails of Cocoanut. Product released on bond. (F. & D. No. 4560. S. No. 1516.)

On September 23, 1912, the United States attorney for the district of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 25 pails of cocoanut remaining unsold in the original unbroken packages and in possession of Wadhams & Kerr Bros., Portland, Oreg., alleging that the product had been shipped on or about

September 21, 1912, from the State of California into the State of Oregon, by the Pacific Cocoanut Co., San Francisco, Cal., and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Red Cross Fancy Thread Cocoanut, Wadhams & Kerr Bros., Portland, Oregon."

Adulteration of the product was alleged in the libel for the reason that glucose had been mixed therewith and packed with it, so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that glucose had been substituted in part for cocoanut. Misbranding was alleged for the reason that the labels on the product were intended to deceive purchasers and to convey the impression that the cocoanut was manufactured by Wadhams & Kerr Bros., in the State of Oregon, when, in truth and in fact, the cocoanut was manufactured in California.

On October 9, 1912, the case having come on for hearing, it was ordered by the court that the product should be released and delivered to the said Pacific Cocoanut Co., claimant, upon payment of the costs of the proceedings, amounting to $19.34, and the execution of bond in the sum of $200 in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2925. Adulteration and misbranding of beer. U. S. v. Monumental Brewing Co. Plea of guilty. Fine, $15. (F. & D. No. 4568. I. S. No. 18462-d.)

On July 13, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Monumental Brewing Co., a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on March 4, 1912, from the State of Maryland into the State of Georgia, of a quantity of beer which was adulterated and misbranded. The product was labeled: (On each retail bottle) "Special Export Extra Pale Beer Brewed from the very best malt and hops."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity	1.01461
Alcohol (per cent by volume)	4.56
Extract (per cent by weight)	5.50
Extract original wort (per cent by weight)	12.80
Degree fermentation	57.03
Volatile acid as acetic (grams per 100 cc)	0.007
Total acid as lactic (grams per 100 cc)	0.180
Maltose (per cent)	1.75
Dextrin (per cent)	2.68
Ash (per cent)	0.17
Proteid (per cent)	0.377
P_2O_5 (per cent)	0.055
Undetermined (per cent)	0.52
Polarimeter, undiluted (°V.)	+40.6

Adulteration of the product was alleged in the information for the reason that it was stated on the labels of the bottles containing the same, "Brewed from the very best malt and hops," whereas grains other than malt and hops had been substituted in part for said malt and hops. Misbranding was alleged for the reason that the labels on each of the bottles containing the beer bore the statement that the beer was brewed from the very best malt and hops, which said statement was false and misleading in that the beer was not brewed solely from malt and hops but, in truth and in fact, grains other than malt and hops had been substituted for said malt. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled, "Special Export Extra Pale Beer Brewed

from the very best malt and hops," whereas, in truth and in fact, the beer was not brewed solely from malt and hops, but, on the contrary, grains other than malt and hops had been substituted for said malt.

On October 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $15.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2926. Adulteration of maple sirup. U. S. v. Frank F. Chamberlin (Standard Maple Products Co.). Plea of guilty. Fine, $25 and costs. (F. & D. No. 4575. I. S. No. 17231-d.)

On January 20, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Frank F. Chamberlin, doing business under the name and style of Standard Maple Products Co., Warren, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about December 20, 1911, from the State of Ohio into the State of Nebraska, of a quantity of maple sirup which was adulterated. The product was labeled: "Net weight Kamo 2½ lbs. Pure Maple Sap Syrup put up expressly for Paxton Gallagher Co., Omaha, Neb."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: Dry substance by refractometer (per cent), 63.24; water, by difference, 36.76. Sample has too high a percentage of water for a maple sirup.

Adulteration of the product was alleged in the information for the reason that a substance, to wit, water, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength.

On February 7, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2927. Adulteration of jellies. U. S. v. The Williams Bros. Co. Plea of guilty. Fine, $100. (F. & D. No. 4585. I. S. Nos. 10084-c, 10085-c, 10086-c, 10087-c.)

On February 4, 1913, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Williams Bros. Co., a corporation, Detroit, Mich., alleging shipment by said company, in violation of the Food and Drugs Act, on December 19, 1910, from the State of Michigan into the State of Missouri, of a quantity of four brands of jelly which was adulterated. The first brand was labeled: "Williams Apple and Currant Jelly. (Trade-mark.) The Williams Bros. Co., Detroit, Mich., U. S. A. Guaranteed by the Williams Bros. Co. under the Foods & Drugs Act, June 30, 1906. Serial No. 779." Analysis of a sample of this brand by the Bureau of Chemistry of this department showed that it contained 7 parts per million of arsenic as As_2O_3. Adulteration of this product was alleged in the information for the reason that it contained added poisonous and other added deleterious ingredients which would render the article injurious to health, to wit, 7 parts of arsenic as arsenious oxid per million. The second brand was labeled: "Williams Apple Jelly with Lemon. (Trade-mark.) The Williams Bros. Co., Detroit, Mich., U. S. A. Guaranteed by the Williams Bros. Co. under the Food & Drugs Act, June 30, 1906. Serial No. 779." Analysis of a sample of this brand by said Bureau of Chemistry showed that it contained 8 parts per million of arsenic as As_2O_3. Adulteration of this product was alleged in the information for the reason that it contained an added poisonous and deleterious ingredient, to wit, arsenic, thus rendering the article injurious to health. The third brand was labeled Williams Apple and Red Raspberry Jelly. (Trade-mark.) The Williams Bros. Co., Detroit, Mich., U. S. A.

Guaranteed by the Williams Bros. Co. under the Food & Drugs Act, June 30, 1906. Serial No. 779." Analysis of a sample of this brand by said Bureau of Chemistry showed that it contained 20 parts per million of arsenic as As_2O_3. Adulteration of this product was alleged in the information for the reason that it contained an added poisonous and deleterious ingredient, to wit, 20 parts of arsenic as arsenious oxid per million, which would render the article injurious to health as a food product. The fourth brand was labeled: "Williams Apple Jelly with Pineapple. (Trademark.) The Williams Bros. Co., Detroit, Mich., U. S. A. Guaranteed by the Williams Bros. Co. under the Food & Drugs Act, June 30, 1906. Serial No. 779." Analysis of a sample of this brand by said Bureau of Chemistry showed that it contained 8 parts per million of arsenic as As_2O_3. Adulteration of this product was alleged in the information for the reason that it contained an added poisonous and deleterious ingredient, to wit, 8 parts of arsenic as arsenious oxid per million, which would render the article injurious to health as a food product.

On March 7, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $100.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2928. Adulteration of jelly red color. U. S. v. Chas. W. Shaw Co. Plea of guilty. Fine, $10. (F. & D. No. 4589. I. S. No. 19150-c.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Chas. W. Shaw Co., a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on March 30, 1911, from the State of Maryland into the State of Tennessee, of a quantity of so-called jelly red color which was adulterated. The product was labeled: "25 lbs. Jelly Red Color AU 3-30. Roddy-Goodman Co., Knoxville, Tenn., S. R. 3-30."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Amaranth (S. & J. No. 107)	13.75
Ponceau 3 R (S. & J. No. 56)	37.65
(No other coloring matters found.)	
Arsenic as As_2O_3 (parts per million)	43

Adulteration of the product was alleged in the information for the reason that it contained a certain added poisonous and deleterious ingredient, to wit, 43 parts of arsenic as arsenious oxid per million, which might render the article injurious to health.

On October 9, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2929. Adulteration and misbranding of cocoanut. U. S. v. 30 Pails of Cocoanut. Product released on bond. (F. & D. No. 4601. S. No. 1534.)

On October 1, 1912, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 30 pails of cocoanut remaining unsold in the original unbroken packages and in possession of Lang & Co., Portland, Oreg., alleging that the product had been shipped on or about August 28 and September 5, 1912, by the Pacific Cocoanut Co., San Francisco, Cal., and transported from the State of California into the State of Oregon, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled:

"Pioneer Brand Cocoanut Manufactured by Pacific Cocoanut Co. San Francisco, Calif. U. S. A. L. and Co. Portland."

Adulteration and misbranding of the product were alleged in the libel for the reason that glucose had been mixed therewith and packed with it so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that glucose had been substituted in part for cocoanut.

On October 9, 1912, the case having come on for hearing, it was ordered by the court that the product should be released and delivered to the Pacific Cocoanut Co., claimant, upon payment of the costs of the proceedings, amounting to $15.74, and the execution of bond in the sum of $200 in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *February 18, 1914.*

2930. Adulteration and misbranding of cordials. U. S. v. Pure Food Distilling Co. Plea of guilty. Fine, $100 and costs. (F. & D. No. 4605. I. S. Nos. 18839-d, 18840-d.)

On June 13, 1913, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Pure Food Distilling Co., a corporation, St. Louis, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, on or about March 13, 1912, from the State of Missouri into the State of Tennessee, of two brands of cordial which was adulterated and misbranded. The first brand was labeled: "Family Trade Cognac Flavored Cordial artificially flavored. Pure Food Distilling Co. St. Louis, Mo." and "Aged in U. S. Bonded Warehouse."

Analysis of a sample of this product by the Bureau of Chemistry of this department showed the following results:

Specific gravity at 15.56° C	0.96044
Proof (degrees)	73.6
Solids (per cent)	0.98
Reducing sugars as invert:	
Direct (per cent)	0.02
After inversion (per cent)	0.84
Sucrose (by copper) (per cent)	0.78
Ash (per cent)	0.006
Alkalinity of ash (cc N/10 acid per 100 cc)	0.36
Aldehydes as acetic (parts per 100,000, 100° proof)	0.65
Esters (parts per 100,000, 100° proof)	4.78
Fusel oil (parts per 100,000, 100° proof)	7.18
Furfural (parts per 100,000, 100° proof)	None.
Acidity (parts per 100,000, 100° proof)	9.77
Color insoluble amyl alcohol (per cent)	75

Adulteration of this product was alleged in the information for the reason that it was labeled and sold as cognac flavored cordial and another substance, to wit, neutral spirits artificially colored and flavored, had been substituted wholly or in large part for the article, to wit, cognac flavored cordial. Misbranding was alleged for the reason that the statements contained on the labels, to wit, "Cognac Flavored Cordial" and "Aged in U. S. Bonded Warehouse," were false and misleading, because, in truth and in fact, the product was not a cordial and was not a cognac flavored cordial, but was essentially neutral spirits artificially colored and flavored and was not aged in a United States bonded warehouse, and was further misbranded in that it was an imitation of cognac flavored cordial and was offered for sale under the distinctive name of that article, that is, cognac flavored cordial, and was further misbranded in that it was labeled and branded so as to deceive and mislead the purchaser thereof in that the

labels, set forth above, misled and deceived the purchaser into the belief that the product was cognac flavored cordial and was aged in a United States bonded warehouse, whereas, in truth and in fact, it was not a genuine cognac flavored cordial but was an imitation of cognac flavored cordial and was not aged in a United States bonded warehouse as claimed on said labels.

The second brand was labeled: (Main label) "Family Trade Banana Flavored Cordial artificially colored. Pure Food Distilling Co. St. Louis, Mo." (Neck label) "Aged in U. S. Bonded Warehouse."

Analysis of a sample of this product by said Bureau of Chemistry showed the following results:

Specific gravity at 15.56° C.	1.0323
Proof (degrees)	68.54
Solids (per cent)	18.74
Reducing sugars as invert:	
Direct (per cent)	3.96
After inversion (per cent)	18.93
Sucrose (by copper) (per cent)	14.22
Polarization, invert at 87° C. (°V.)	0
Glucose	None.
Ash (per cent)	0.011
Alkalinity of ash (cc N/10 acid per 100 cc)	1.04
Aldehydes as acetic (parts per 100,000 100° proof)	9.5
Esters (parts per 100,000 100° proof)	27.84
Fusel oil (parts per 100,000 100° proof)	16.13
Furfural (parts per 100,000 100° proof)	0.24
Acidity (parts per 100,000 100° proof)	42.36
Color insoluble amyl alcohol (per cent)	80

Adulteration of this product was alleged in the information for the reason that it was labeled and sold as banana flavored cordial and another substance, to wit, neutral spirits artificially colored and flavored, had been substituted wholly or in large part for the article, to wit, banana flavored cordial. Misbranding was alleged for the reason that the statements, "Banana Flavored Cordial" and "Aged in U. S. Bonded Warehouse," which appeared on the labels, were false and misleading because the product was not a genuine banana flavored cordial but was an imitation cordial prepared essentially from neutral spirits artificially colored and flavored, and was not aged in a United States bonded warehouse, and was further misbranded in that it was an imitation of banana flavored cordial and was offered for sale under the distinctive name of another article, to wit, banana flavored cordial, and was further misbranded in that it was so labeled and branded as to mislead the purchaser thereof, being labeled and branded as set forth above, which form of labeling misled and deceived the purchaser because the product was not a genuine banana flavored cordial, but was an imitation cordial composed essentially of neutral spirits artificially colored and flavored, and, furthermore, was not aged in a United States bonded warehouse.

On October 21, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $100 with costs of $21.68.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2931. Adulteration and misbranding of beer. U. S. v. Eastern Oregon Brewing Co. Plea of guilty. Fine, $25. (F. & D. No. 4607. I. S. No. 15991-d.)

On October 21, 1912, the United States attorney for the district of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against the Eastern Oregon Brewing Co., a cor-

poration, The Dalles, Oreg., alleging shipment by said company, in violation of the Food and Drugs Act, on or about March 20, 1912, from the State of Oregon into the State of Washington, of a quantity of so-called Heidelberg beer which was adulterated and misbranded. The bottles containing the product were labeled: (Neck label) "Heidelberg." (On main label) "Heidelberg The Prince of Pilsener Old Style Beer Made The Old German Way Brewed from the choicest Malt and Hops and Bottled by Eastern Oregon Brewing Co., The Dalles, Oregon, U. S. A. (Reg. Guar)."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Alcohol (per cent by volume)	4.20
Extract (per cent by weight)	5.15
Extract, original wort (per cent by weight)	13.87
Degree fermentation (per cent)	48.45
Volatile acid as acetic (grams per 100 cc)	0.009
Total acid as lactic (grams per 100 cc)	0.144
Maltose (grams per 100 cc)	2.07
Dextrin (grams per 100 cc)	2.10
Ash (grams per 100 cc)	0.146
Protein (grams per 100 cc)	0.283
P_2O_5 (grams per 100 cc)	0.054
Undetermined (grams per 100 cc)	0.55
Polarimeter (°V. undiluted)	34.0
Color (Lovibond $\frac{1}{4}$ inch cell)	2

Adulteration of the product was alleged in the information for the reason that the statement "Brewed from the Choicest Malt and Hops" was calculated to and did convey to intending purchasers the idea that the product was brewed from the choicest malt and hops and no other article, whereas, in truth and in fact, a substance, to wit, a cereal product other than malt, was substituted in whole or in part for malt. Misbranding was alleged for the reason that the labels and brands upon each of the bottles of the product were false and misleading, and the product was misbranded in that the statement and label, "Brewed from the Choicest Malt and Hops," was calculated to and did convey to intending purchasers of the product the idea that it was brewed from no other articles than malt and hops, whereas, in truth and in fact, it was brewed and produced in part from a cereal product other than malt.

On May 5, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2932. Adulteration and misbranding of ginger cordial. U. S. v. John Burke Importing Co. Plea of guilty. Fine, $25. (F. & D. No. 4608. I. S. No. 13781-d.)

On June 2, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against the John Burke Importing Co., a corporation, New York, N. Y., alleging the sale by said defendant company, on October 11, 1911, of a quantity of adulterated and misbranded ginger cordial under a written guaranty that the same was not adulterated or misbranded within the meaning of the Food and Drugs Act of June 30, 1906, and that the said product was thereafter shipped by the purchaser from the State of New York into the State of New Jersey. The product was labeled: "Ginger Cordial made from pure Ginger Root. Invaluable in cases of Gastric Cramps and Indigestion."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that it contained alcohol, the presence and quantity of which was not stated, and, further, that capsicum had been substituted in part for ginger. Adulteration of

the product was alleged in the information for the reason that there was substituted in part for ginger another substance, to wit, capsicum. Misbranding was alleged for the reason that the statement on the label regarding the drug and the ingredients and substances contained therein, to the effect that it was ginger cordial made from pure ginger root, was false and misleading, in that said drug was not a ginger cordial made from pure ginger root, but was a mixture of ginger cordial and capsicum. Misbranding was alleged for the further reason that the package containing the product failed to bear a statement on the label thereof of the quantity and proportion of alcohol contained therein, whereas it contained alcohol to the extent of 32.97 per cent.

On June 2, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2933. Misbranding of stock feed. U. S. v. Rayne Rice Milling Co. (Ltd.). Plea of guilty. Fine, $50. (F. & D. No. 4614. I. S. No. 12421-d.)

On August 29, 1913, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against the Rayne Rice Milling Co. (Ltd.), a corporation, Rayne, La., alleging the shipment by said company, in violation of the Food and Drugs Act, on or about September 22, 1911, from the State of Louisiana into the State of Texas, of a quantity of so-called Pelican Feed, which was misbranded. The product was labeled: (On cases) "90 pounds steam cooked Pelican Feed (picture of pelican); made for horses, mules, and cattle by Rayne Rice Milling Company, Limited, Rayne, La. Bemis N. O. 3385." (On tag) "Good for a hundred pounds. H. H. Herrington, Director. The inspection tax has been paid on this feed. J. W. Carson, State Feed Inspector, College Station, Texas. Steam cooked Pelican Feed, made of rice, rice bran, rice polish, corn chops, cottonseed meal and blackstrap molasses, made by Rayne Rice Milling Co. (Ltd.) Rayne, Louisiana, Analysis: Crude fat, 4%; Crude Protein, 10.50%; Carbohydrates, 50%; fiber, 12.90%."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Moisture (per cent)	7.80
Ether extract (per cent)	4.79
Protein (per cent)	9.08
Crude fiber (per cent)	12.87

Misbranding of the product was alleged in the information for the reason that, as a matter of truth and fact, the article of food did not contain 10.50 per cent of protein as shown on the label, and that same was false and misleading, and that the product did not contain exceeding 9.09 per cent of protein, and was intended to deceive and mislead the purchaser and consumer of same in the manner aforesaid.

On December 15, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $50.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2934. Adulteration of horse beans. U. S. v. 380 Sacks of Horse Beans. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 4616. S. No. 1538.)

On October 7, 1912, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district a libel for the seizure and condemnation of 380 sacks of horse beans remaining unsold in the original unbroken packages at the St. Ann Street warehouse of Morgan's Louisiana & Texas Railroad & Steamship Co., New

Orleans, La., alleging that the product had been shipped by M. J. O'Reilly, San Francisco, Cal., and transported from the State of California into the State of Louisiana, and charging adulteration in violation of the Food and Drugs Act. The product bore no label.

Adulteration of the product was alleged in the libel for the reason that 10 per cent thereof contained live broad-bean weevils, and that in addition 7 per cent of the remainder was bug eaten, and the said horse beans contained a total of approximately 18 per cent of weevil-infected and bug-eaten beans, and therefore the said beans consisted of filthy, decomposed, and putrid vegetable and animal substances, particularly the excreta of said weevils.

On March 29, 1913, the answer and other pleadings that had been filed by said M. J. O'Reilly, claimant, having been withdrawn, the default decree of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal, and that the claimant, M. J. O'Reilly, should pay the costs of the proceedings.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2935. Adulteration of cream tartar. U. S. v. Pan Chemical Co. Plea of guilty. Fine, $50. (F. & D. No. 4620. I. S. No. 2160-d.)

On April 22, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Pan Chemical Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on May 18, 1911, from the State of New York into the State of Washington, of a quantity of cream tartar which was adulterated. The product was labeled: "400# Pulverized Cream Tartar. Pan Chemical Co., New York."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the presence of 62 milligrams of lead per kilogram. Adulteration of the product was alleged in the information for the reason that it contained a certain added poisonous and deleterious ingredient—to wit, lead—which might render it injurious to health.

On May 5, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $50.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2936. Adulteration and misbranding of peach brandy compound; adulteration and misbranding of banana cordial; adulteration and misbranding of apple brandy. U. S. v. Sam Rosenbaum. Plea of guilty. Fine, $100 and costs. (F. &. D. No. 4622. I. S. Nos. 16174-d, 16175-d, 16176-d.)

At the November, 1912, term of the District Court of the United States for the District of Indiana the grand jurors of the United States within and for said district, acting upon a report by the Secretary of Agriculture, returned an indictment against Sam Rosenbaum, Terre Haute, Ind., alleging shipment by said defendant, in violation of the Food and Drugs Act, on March 20, 1912, from the State of Indiana into the State of Illinois:

(1) Of a quantity of peach brandy compound which was adulterated and misbranded. The product was labeled: "Peach Brandy Compound." Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity at 15.56° C.	0.94486
Proof (degrees)	89.34
Solids (per cent)	0.044
Sucrose (per cent)	None.
Ash (per cent)	0.0027

Esters as acetic (parts per 100,000, 100° proof)	15.78
Aldehydes as acetic (parts per 100,000, 100° proof)	1.41
Furfural (parts per 100,000, 100° proof)	0.63
Fusel oil (parts per 100,000, 100° proof)	12.31
Acidity (parts per 100,000, 100° proof)	10.74
Color insoluble in amyl alcohol (per cent)	60
Alkalinity of ash (cc N/10 hydrochloric acid per 100 cc)	0.26
Reducing sugar (per cent)	0.01
Reducing sugar after inversion (per cent)	0.01

Adulteration of the product was charged in the indictment for the reason that a certain substance—to wit, neutral spirits from a source other than a peach—had been substituted in part for peach brandy. Misbranding was charged for the reason that the statement "Peach Brandy Compound," printed and apparent on the label attached to the bottle containing the product, regarding it, was false and misleading in that the product was not peach brandy compound, but was neutral spirits from a source other than the peach and was an imitation peach brandy compound.

(2) Of a quantity of banana cordial which was adulterated and misbranded. This product was labeled: "Superior Banana Cordial." Analysis of a sample of this product by said Bureau of Chemistry showed the following results:

Specific gravity at 15.56° C	1.1077
Alcohol (per cent by volume)	22.93
Solids (per cent)	31.0
Sucrose (per cent)	25.18
Reducing sugars as invert after inversion (per cent)	32.36
Ash (per cent)	0.002
Esters (parts per 100,000, 100° proof)	66.27
Fusel oil (parts per 100,000, 100° proof)	41.24
Acidity (parts per 100,000, 100° proof)	45.78
Polarization, direct at 20° C (°V.)	+23
Polarization, invert at 20° C. (°V.)	−10.4
Polarization, invert at 87° C. (°V.)	0
Glucose	None.
Alkalinity of ash (cc N/10 acid per 100 cc)	1.3

Adulteration of the product was charged in the indictment for the reason that a certain substance, to wit, an imitation banana cordial, artificially flavored and colored, had been substituted in part for banana cordial. Misbranding was charged for the reason that the statement "Superior Banana Cordial," printed and apparent on the label of the product, regarding it, was false and misleading in that said product was not a genuine banana cordial, but an imitation banana cordial, artificially flavored and colored.

(3) Of a quantity of apple brandy which was adulterated and misbranded. This product was labeled: "Pure California Wines. Apple Brandy. Arthur Lachman, San Francisco. Bottled by Sam Rosenbaum, Terre Haute, Indiana." Analysis of a sample of the product by said Bureau of Chemistry showed the following results:

Specific gravity at 15.56° C	0.94479
Alcohol (per cent by volume)	44.55
Solids (per cent)	0.10
Ash (per cent)	0.004
Alkalinity of ash (cc N/10 acid per 100 cc)	1.2
Fusel oil (parts per 100,000, 100° proof)	14.78
Volatile acids as acetic (grams per 100,000, 100° proof)	4.03
Esters (grams per 100,000, 100° proof)	28.58

Adulteration of the product was charged in the indictment for the reason that a certain substance, to wit, neutral spirits from a source other than apple, had been substituted in part for apple brandy. Misbranding was charged for the reason that the statement "Apple Brandy," so printed and apparent on the label of the product, regarding it, was false and misleading in that the product was not a genuine apple brandy, but a product containing neutral spirits from a source other than the apple and was an imitation apple brandy.

On June 12, 1913, defendant entered a plea of guilty to the indictment and the court imposed a fine of $100 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2937. Misbranding of gin. U. S. v. Arrow Distilleries Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4623. I. S. No. 20813-d.)

On November 1, 1912, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Arrow Distilleries Co., a corporation, of Peoria, Ill., alleging shipment by said company, in violation of the Food and Drugs Act, on May 2, 1912, from the State of Illinois into the State of Missouri, of a quantity of bottled gin which was misbranded. The product was labeled: "Borovicska, Juniper, Czacza Type Hungarian Style Gin, Palinka, Rafnerya Spirytuso Oral, Fabryka Likierow, Rectifiers and Distillers of Fine Liquors."

Misbranding of the product was alleged in the information for the reason that it was labeled as set forth above, which label, device, and brand was so attached and displayed as to deceive and mislead the purchaser into believing that said article was a foreign product, and which said label, device, and brand purported to declare and did in substance declare that said article was a foreign product, to wit, a product of Hungary, when, in truth and in fact, said article was a product of and was manufactured wholly within the United States.

On April 23, 1913, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2938. Adulteration and misbranding of condensed milk. U. S. v. Libby, McNeill & Libby. Tried to a jury. Verdict of guilty. Order entered allowing an appeal and writ of error. Judgment of trial court affirmed in Circuit Court of Appeals. (F. & D. No. 4625. I. S. No. 21555-d.)

On October 25, 1912, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Libby, McNeill & Libby, a corporation, organized under the laws of the State of Maine, doing business at Norfolk, Va., alleging shipment by said company, in violation of the Food and Drugs Act, on May 3, 1912, from the State of Virginia into the State of Georgia, of a quantity of so-called condensed milk which was adulterated and misbranded. The product was labeled: "Target Brand Condensed Skimmed Milk Packed for and guaranteed by Foster Packing Company, Chicago, Under the Food and Drugs Act, June 30, 1906. Serial No. 26104. Net weight about 15 ounces."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

	Per cent.
Water	26.77
Fat (by Roese-Gottlieb)	0.57
Protein (N×6.38)	10.13
Lactose (by copper)	18.05
Sucrose (by difference)	42.17

	Per cent.
Ash	2.31
Total solids (by drying)	73.23
Milk solids	31.06
Fat in milk solids	1.84
Ratio of proteins to fat	1 to 0.0562
	Gross weight, grams.
No. 1	501.0
No. 2	498.0
No. 3	496.0
No. 4	502.5
No. 5	498.0
No. 6	484.0
Average	496.6
Tare	66.5
Net weight, O. K	[1] 430.1

Adulteration of the product was alleged in the information for the reason that it was labeled and sold as condensed milk, and a substance, to wit, cane sugar, had been substituted in part for the article. Misbranding was alleged for the reason that the statement, "Condensed Skimmed Milk," borne on the labels of the packages, was false and misleading because, as a matter of fact, the product was not wholly condensed skimmed milk, but was sweetened condensed skimmed milk, containing about 42.17 per cent of cane sugar.

On January 17, 1913, the case having come on for trial before the court and jury, after the submission of evidence and arguments by counsel, the following charge was delivered to the jury by the court (Waddill, *J.*):

This is an information filed by the district attorney against Libby, McNeill & Libby, a corporation. The first count charges that, in violation of the act of Congress, known as the Food and Drugs Act, the defendant shipped in interstate commerce 15 cases of an article of food, known as condensed milk, which it is alleged is adulterated within the meaning of the said act of Congress, in that a certain substance, to wit, cane sugar, had been substituted in part for said article.

The second count charges that the same shipment is mishandled (misbranded?) within the meaning of the said act of Congress, because the labels on the packages containing the said article of food are alleged to be false and misleading, in that the statement "Condensed Skimmed Milk" borne thereon is false and misleading on the ground that the product is not wholly condensed skimmed milk, but is sweetened condensed milk, containing about 42.17 per cent of cane sugar.

The court charges you that if you believe from the evidence beyond a reasonable doubt that the defendant company on or about the 3d day of May, 1912, at the city of Portsmouth, in this district, delivered to the Seaboard Air Line Railway, a corporation common carrier engaged in interstate commerce, 15 cases of an article known as condensed skimmed milk for shipment to Savannah, Georgia, and that such a product was labeled and sold as a condensed skimmed milk, but that it contained 42.17 per cent of cane sugar, and that said sugar is not a component part of condensed skimmed milk, then you are further charged that the substitution of the cane sugar in part for the said product is in violation of section 7, paragraph 2, of said act of Congress, and therefore constitutes adulteration within the meaning of the said act.

You are further charged that if you believe from the evidence beyond a reasonable doubt that the said product was delivered as aforesaid, for shipment to another State, and that the label or brand on said product is false or misleading in any particular, then you are further charged that the product is misbranded within the meaning of the Food and Drugs Act, and you should find the defendant guilty.

You are further charged that it is not necessary for the Government to prove that the substitute substance, if you believe a substance has been substituted, in material part, for the milk, is deleterious or poisonous, or injurious to health; it is sufficient within the meaning of the law if any substance not a component part of the original substance has been substituted. If such substance was substituted, then the article was adulterated, and you should so find.

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[1] 15.2 ounces.

The jury thereupon retired and on January 18, 1913, returned into court with a verdict of guilty, and thereupon a motion for a new trial was made on behalf of the defendant company, which was overruled by the court.

On March 1, 1913, an order was entered allowing an appeal and writ of error to the Circuit Court of Appeals for the Fourth Circuit, and on the same date the district court imposed a fine of $100 and costs. On November 6, 1913, the case came on for argument in the said circuit court of appeals before Pritchard and Woods, circuit judges, and Rose, district judge, and on November 12, 1913, the judgment of the lower court was affirmed, as will more fully appear from the following decision by the court (Rose, *D. J.*):

This is a prosecution under the Food and Drugs Act. It raises two questions as to the construction of that statute.

First. Are words in everyday use to be given when found on the labels of food products their ordinary and popular meaning rather than the commercial significance which they have acquired among manufacturers and dealers?

Second. Does the first proviso to section 8 of the act permit the use as a name for a compound or mixture intended for food of common words which will to an ordinary man appear to be descriptive but which if so understood will be false and misleading?

The plaintiff in error was the defendant below. It will be so called here. It is a Maine corporation. Its factory is in Chicago. Among other things, it there prepares what it calls the "Target Brand of Condensed Skimmed Milk." It does not put out this product under its own name, but under that of the "Foster Packing Company." That designation is not the name of an actual corporation, but is a mere trade name under which the defendant for some reason of its own chooses to market some of its products. It is admitted that what it labels "Condensed Skimmed Milk" contains something more than two parts of cane sugar to something less than three parts of the more nearly solid constituents of skimmed milk. The information charged that the product was adulterated because cane sugar had been in part substituted for skimmed milk and that it was misbranded because the label was false and misleading in that the contents of the can were not wholly condensed skimmed milk, but were to the extent of 42 per cent cane sugar.

The record shows that milk which has been reduced by evaporation to a fourth or less of its original weight is sometimes sweetened and sometimes is not. When it is sweetened, sugar is added to the skimmed milk while the latter is still in its natural state, in the proportion of 3 parts of sugar to 20 parts of milk. The mixture is then subjected to a process of condensation by evaporation, the effect of which is to reduce its weight by about 70 per cent. Of the 30 per cent remaining upward of two-fifths will be sugar. Unsweetened skimmed milk is condensed or evaporated in the same manner, except that, of course, no sugar is added to it. Unsweetened condensed or evaporated milk, whether skimmed or unskimmed, must be thoroughly sterilized before being hermetically sealed. After the seal is broken it will not keep as long as the sweetened. In the latter the sugar acts as a preservative.

The defendant offers much evidence that manufacturers and wholesale and retail dealers of and in food products know that what passes under the name of condensed milk or condensed skimmed milk contains a large percentage of sugar. Many of them said that when they order condensed skimmed milk they expect to get the sweetened article. If the unsweetened were sent them, they would feel that they had been imposed upon. From the testimony of some of these witnesses it, however, appeared that there were on the market many brands of sweetened condensed skimmed milk which were labeled sweetened and others which containing no added sugar were marked as unsweetened.

The defendant asked the court to give eight instructions to the jury. Six of these, although in varying phraseology, were to the effect that if condensed skimmed milk as commercially known is concentrated milk to which sugar has been added, the defendant must be acquitted. These instructions were refused.

There is no question that words should sometimes be given their trade or commercial meaning rather than their more ordinary one. Such has been long the rule of construction applied to tariff and revenue acts.

Laws regulating the payment of duties are for practical application to commercial operations, and are to be understood in a commercial sense. Such laws are intended for practical use and application by men engaged in commerce, and hence it has become a settled rule in the interpretation of statutes of this description to construe the language adopted by the legislature and particularly in the denomination of articles according to the commercial understanding of the terms used. (Tyng *v.* Grinnell, Collector, 92 U. S.. 470.)

On the other hand, when it is alleged that a particular description, branding, or method of offering of goods for sale will enable one dealer to pass off his products for those of another, it is usually immaterial whether dealers in such articles are deceived or not. The inquiry in such cases is whether the ultimate purchaser will be misled. (Hopkins on Trade Marks, sec. 106.)

Pure food laws are intended to protect the public whose members may be, and, in the more numerous part usually are, ignorant of the technical significance which ordinary words may have acquired in particular trades or industries.

The Supreme Court of Michigan has said that decisions construing revenue acts "do not apply to cases arising under the pure food laws of State governments. Courts will take cognizance of the well-known fact that farmers, laboring men, and consumers are not generally familiar with the customs of trade and commerce in importing goods or of the understandings of the trade between manufacturers and merchants who buy these products for retail trade. Such construction would emasculate the pure food laws and deprive the people of the protection which the legislature wisely intended to give them." (Armour & Co. *v.* Dairy & Food Commissioner, 159 Mich., 10.)

We fully concur in this statement of the true rule of construction to be applied to pure food statutes, whether State or Federal. It follows that the learned judge rightly refused to instruct the jury otherwise.

The other two requests of the defendant for instructions were that the jury should be told in effect that if they should find that condensed skimmed milk as manufactured and sold to the public is a mixture or compound sold under its own distinctive name, the defendant was not required to indicate on the label of the product the presence of sugar in it. These requests were also denied.

It is not necessary in this case to attempt an exhaustive construction of the first proviso of section 8 of the act. In our view it has no application to the facts of this case. The words on the label were all in ordinary use. Each and every one of them could and would be understood by the general public to have been intended to convey their accustomed meaning; that is to say, the average man who read the label would suppose that the can contained skimmed milk which had been reduced in bulk by evaporating or otherwise driving off a part of its fluids.

Defendant does not question that unsweetened milk may be and habitually is subjected to this process and that a marketable product is thereby obtained. The description on its label would be strictly accurate if applied to such milk product, provided that the words used are to be given their customary significance. Under such circumstances, the defendant may not use them to indicate the presence in substantial quantities of a constituent, the existence of which in the product they in their ordinary meaning impliedly deny.

The construction which is here put upon the statute works no hardship upon the defendant or upon other manufacturers and dealers in like case with it. It does not claim that its trade will be hurt by telling the purchasers of its goods that there is sugar in them. Its whole contention here rests upon the assumption that they already know that there is. If that be true, no harm will be done by stating the fact in plain language upon the label.

The defendant assigns error in the instructions actually given by the court below. They, however, do not appear to be open to criticism. They left to the jury to find, in addition to the other essential facts, whether sugar was a component part of condensed skimmed milk.

Affirmed.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2939. Adulteration of leavener. U. S. v. Charles W. Shaw Co. Plea of guilty. Fine, $10. (F. & D. No. 4631. I. S. No. 19447-c.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Charles W. Shaw Co., a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on May 9, 1911, from the State of Maryland into the State of North Carolina, of a quantity of leavener which was adulterated. The product was labeled: "Guaranteed Absolutely Wholesome. Shaw's Perfect Leavener for bakers. Chas. W. Shaw Co., Baltimore, Md., U. S. A. Double Sulphate of Aluminum. Pure Acid Phosphate of Calcium, High Grade Bicarbonate of Soda, and Pure Corn Starch."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the presence of 30 parts per million of arsenic as arsenious oxid (As_2O_3).

Adulteration of the product was alleged in the information for the reason that it contained a certain added and poisonous deleterious ingredient, to wit, 30 parts per million of arsenic as arsenious oxid per million, which might render said article injurious to health.

On October 9, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2940. Misbranding of cottonseed meal. U. S. v. Georgia Cotton Oil Co. Plea of guilty. Fine, $25. (F. & D. No. 4635. I. S. No. 14163-d.)

On November 18, 1912, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Georgia Cotton Oil Co., a corporation, Rome, Ga., alleging shipment by said company, in violation of the Food and Drugs Act, on December 8, 1911, from the State of Georgia into the State of Tennessee, of a quantity of cottonseed meal which was misbranded. The product was labeled: "100 Pounds Cotton Seed Meal Manufactured by Georgia Cotton Oil Company, Rome, Georgia. Guaranteed Analysis Protein 38.62%, Fat 10.50%, Fiber 7.50%, Carbohydrates 40.00%. Ingredients—Cotton Seed Meal."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Moisture (per cent)	6.82
Ether extract (per cent)	7.08
Protein (per cent)	40.29
Crude fiber (per cent)	11.13

Misbranding of the product was alleged in the information for the reason that the statements "Fat 10.50%" and "Fiber 7.50%" borne on the label thereof were false and misleading because said statements created the impression that the product contained the said amounts of fat and fiber, whereas, in truth and in fact, it contained a smaller amount of fat and a larger amount of fiber, to wit, 7.08 per cent fat and 11.13 per cent fiber. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled "Fat 10.50%" and "Fiber 7.50%," when, as a matter of fact, it did not contain said amounts of fat and fiber, but contained a smaller amount of fat and a larger amount of fiber, to wit, 7.08 per cent fat and 11.13 per cent fiber.

On May 16, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2941. Adulteration of milk. U. S. v. Henry M. Boggs. Tried to the court and a jury. Verdict of guilty. Fine, $15 and costs. (F. & D. No. 4641. I. S. No. 17711-d.)

On March 24, 1913, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Henry M. Boggs, Fullerton, Ky., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about April 19, 1912, from the State of Kentucky into the State of Ohio, of a quantity of milk, which was adulterated.

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Fat (by Babcock) (per cent)	3.9
Protein (N × 6.38) (per cent)	2.61
Ash (per cent)	0.71

Total solids (by drying) (per cent)	11.90
Specific gravity—15.5° C	1.0290
Solids calculated from fat and specific gravity—total (per cent)	11.94
Solids not fat—by drying (per cent)	8.00
Solids not fat—by calculation (per cent)	8.04
Preservative—formaldehyde	Negative.
Nitrates	Present.

Adulteration of the product was alleged in the information for the reason that a substitute, to wit, water, had been mixed with said article of food so as to reduce and lower and injuriously affect its quality and strength, and further, for the reason that a substance, to wit, water, had been substituted in part for the article of food.

On May 27, 1913, the case having come on for trial before the court and a jury, a verdict of guilty was returned by the jury and the court imposed a fine of $15 and costs. B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2942. Adulteration of milk. U. S. v. Horris Maynard Morton. Tried to the court and a jury. Verdict of guilty. Fine, $15 and costs. (F. & D. No. 4642. I. S. No. 17701-d.)

On March 24, 1913, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Horris Maynard Morton, Fullerton, Ky., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about April 19, 1912, from the State of Kentucky into the State of Ohio, of a quantity of milk, which was adulterated.

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Fat (by Babcock) (per cent)	3.4
Protein (N × 6.38) (per cent)	2.58
Ash (per cent)	0.60
Total solids (by drying) (per cent)	10.63
Specific gravity—15.5° C	1.0270
Solids calculated from fat and specific gravity (per cent)	10.83
Solids not fat—by drying (per cent)	7.23
Solids not fat—by calculation (per cent)	7.43
Preservative—formaldehyde	Negative.
Nitrates	Present.

Adulteration of the product was alleged in the information for the reason that a substance, to wit, water, had been mixed with the article of food so as to reduce and lower and injuriously affect its quality and strength, and for the further reason that a substitute, to wit, water, had been substituted in part for said article of food.

On May 27, 1913, the case having come on for trial before the court and a jury, a verdict of guilty was returned by the jury, and the court imposed a fine of $15 and costs. B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2943. Adulteration of oil of juniper berries. U. S. v. James B. Horner. Pleaof guilty. Fine, $25. (F. & D. No. 4650. I. S. No. 18156-d.)

On April 22, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against James B. Horner, New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on January 24, 1912, from the State of New York into the State of California, of a

quantity of oil of juniper berries which was adulterated. The product was labeled: "Oil Juniper Berries twice rectified, James B. Horner, New York." Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity at 25° C	0.8550
Rotation in 100 mm tube (degrees)	5.5
Insoluble in 15 volumes of 90 per cent alcohol.	
Alcohol absent.	
Fractional distillation:	
Up to 155° C. (per cent)	9.2
155°–160° C. (per cent)	11.2
160°–170° C. (per cent)	52.4
170°–260° C. (per cent)	21.2
Residue	4.4

Adulteration of the product was alleged in the information for the reason that it was sold under and by a name recognized in the United States Pharmacopœia, to wit, oil of juniper, and differed from the standard of strength, quality, and purity, as determined by the test laid down in said Pharmacopœia official at the time of shipment and investigation, in that the specific gravity of said article at 25° C. was 0.8550, whereas said Pharmacopœia provides as a test for oil of juniper that its specific gravity at 25° C. shall be between 0.860 and 0.880.

On May 12, 1913, the defendant entered a plea of guilty to the information, and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2944. Adulteration of chocolate cremolin. U. S. v. Leo Benjamin. Plea of guilty. Fine, $50. (F. & D. No. 4666. I. S. No. 13543-c.)

On April 30, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Leo Benjamin, New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act on August 30, 1910, from the State of New York into the State of Pennsylvania, of a quantity of chocolate cremolin, which was adulterated. The product was labeled: "Leo Benjamin's Chocolate Cremolin—This Cremolin contains powdered cocoa, and a little harmless coloring. Office 1743 Avenue A, New York."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Total ash (per cent)	13.92
Ash insoluble in aqua regia (per cent)	4.69
Iron as ferric oxid (per cent)	5.96
Arsenic as arsenious oxid (parts per million)	25
Silica, SiO_2 (per cent)	3.79
Manganous oxid, MnO (per cent)	0.39
Coal tar color	None.
Salicylates, saccharin, benzoates	None.

Microchemical examination: Cocoa present, and no foreign material other than the iron oxid.

Possesses a certain amount of chocolate flavor.

Sample contains a considerable amount of a crude oxid of iron, acting both as a color and a cocoa substitute.

Adulteration of the product was alleged in the information for the reason that a mineral substance containing arsenic had been mixed and packed with it so as to

reduce and lower and injuriously affect its quality and strength, and, further, in that another substance, to wit, a mineral substance containing arsenic, had been substituted in part for the article. Adulteration was alleged for the further reason that the product was colored with red ocher, or some iron-bearing material, in a manner whereby its inferiority was concealed. Adulteration was alleged for the further reason that the product contained an added poisonous and deleterious ingredient, to wit, arsenic, which might render it injurious to health.

On May 5, 1913, the defendant entered a plea of guilty to the information, and the court imposed a fine of $50.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2945. Adulteration and misbranding of lekvar. U. S. v. A. L. Reber (Orchard Fruit Preserve Co.). Plea of nolo contendere. Fine, $10. (F. & D. No. 4677. I. S. No. 20261-d.)

On April 11, 1913, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against A. L. Reber, trading under the firm name and style of the Orchard Fruit Preserve Co., Pittsburgh, Pa., alleging shipment by said defendant, in violation of the Food and Drugs Act, on June 13, 1912, from the State of Pennsylvania into the State of Ohio, of a quantity of so-called Hungarian compound lekvar, which was adulterated and misbranded. The product was labeled: (On cover of pail) "Hungarian Compound Lekvar, A. L. Reber, Pittsburg, Pa. F. J. Jankovsky, Cleveland, Ohio." (On shipping tag) "F. J. Jankovsky, Cleveland, Ohio, From the Orchard Fruit Preserve Co. Hungarian Food Supplies, Pittsburg, Pa., 10/30 Lekvar."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Sucrose, Clerget	None.
Commercial glucose (factor 163) (per cent)	42.94
Polarization, direct, at 26° C. (°V.)	+69.6
Polarization, invert, at 26° C. (°V.)	+69.6
Polarization, invert, at 87° C. (°V.)	+70
Erythrodextrin test	Positive.
Sodium benzoate	None.

It was ascertained in connection with the analysis that the product was manufactured in the city of Pittsburgh, Pa. Adulteration of the product was alleged in the information for the reason that another substance, to wit, 42.94 per cent of glucose, was substituted in part for that which the pails purported to contain, to wit, lekvar, an article composed of sugar and plums and manufactured in Hungary. Misbranding was alleged for the reason that the label set forth above bore statements regarding the article and the ingredients and substances contained therein, which were false and misleading, in that said statements represented the article to be a Hungarian lekvar, a product composed of sugar and plums and manufactured in Hungary, when, in truth and in fact, the same was not a Hungarian lekvar, a product composed of sugar and plums and manufactured in Hungary, but was a product composed, in part, of glucose and manufactured in the United States. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, in that the label thereon represented to the purchaser that the article was a Hungarian lekvar, a product composed of sugar and plums and manufactured in Hungary, when, in truth and in fact, it was not a Hungarian lekvar, composed of sugar and plums and manufactured in Hungary, but was a product composed, in part, of glucose, and was manufactured in the United States. Misbranding was alleged for the further reason that the said label purported and represented the article to be a foreign product, to wit, of the country of Hungary, whereas, in truth and in fact, it was

not a foreign product and was not manufactured in the country of Hungary, but was manufactured in the United States.

On April 11, 1913, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2946. Adulteration of candy. U. S. v. The Catawba Candy Co. Plea of guilty. Fine, $50 and costs. (F. & D. Nos. 4679, 4681, 4918. I. S. Nos. 13625-d, 3471-d, 19458-c.)

On April 3, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Catawba Candy Co., a corporation, Sandusky, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act—

(1) On or about March 29, 1911, from the State of Ohio into the State of North Carolina, of a quantity of so-called Italian cream, which was adulterated. This product was labeled: "Catawba Brand Italian Cream 72 Bar Variegated. The C. C. Co., Sandusky, O. U. S. Serial Number 1701 Guaranteed * * * Act June 30, 1906." Analysis of a sample of this product by the Bureau of Chemistry of this department showed the following results:

Iodin number (Hubl 18 hours)	3.7
Alkali test for shellac	Negative.
Shellac (per cent)	0.5
Arsenic as As_2O_3 in shellac (parts per million)	20
Arsenic as As_2O_3 in candy (part per million)	0.1
Arsenic as As_2O_3 (mg in daily ration of $2\frac{3}{4}$ pounds food and 3 pints drink on basis of the amount present in shellac)	53
Arsenic as As_2O_3 (improved method) in shellac (parts per million)	26

(2) On or about April 29, 1911, from the State of Ohio into the State of Illinois, of a quantity of so-called Italian cream, which was adulterated. This product was labeled: "Victor Brand Italian Cream 100 Vanilla Guaranty legend Serial No. 1701." Analysis of a sample of this product by said Bureau of Chemistry showed the following results:

Shellac (per cent)	0.22
Iodin number (Hubl 18 hours)	6.5
Arsenic in shellac (parts per million)	6
Arsenic in candy	None.

(3) On or about September 11, 1911, from the State of Ohio into the State of Oklahoma, of a quantity of so-called iced squares, which were adulterated. This product was labeled: "Catawba Brand Iced Squares 100 Assorted. The C. C. Co., Sandusky, O. Catawba Brand. Serial No. 1701 Guaranteed under the food and drug act, June 30, 1906, Glazed." Analysis of a sample of this product by said Bureau of Chemistry showed the following results:

Resinous coating (per cent)	0.04
Arsenic in coating as As_2O_3 (parts per million)	13

Adulteration of these products was alleged in the information for the reason that they contained an ingredient deleterious and detrimental to health, to wit, arsenic.

On November 28, 1913, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $50 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2947. Misbranding of anesone triduo. U. S. v. Pasquale Gargiulo. Plea of guilty. Fine, $40. (F. & D. No. 4687. I. S. No. 3183-d.)

On June 11, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Pasquale Gargiulo, doing business under the name and style of P. Gargiulo & Co., New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on January 26, 1912, from the State of New York into the State of Massachusetts, of a quantity of so-called anesone triduo, which was misbranded. The product was labeled in the Italian language, a translation of said label being as follows: "Anesone Triduo of our manufacture has met the taste of all by its indisputably superior qualities. Disposes the stomach to regular digestion. When mixed with water it makes a hygienic and delicious beverage. When mingled with coffee it develops a delicate and aromatic perfume. Premium distillery. Martini Sons."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Alcohol (per cent by volume)	46.16
Alcohol (per cent by weight)	37.66
Refractive index of distillate	49
Methyl alcohol by refractometer	None.

The article contains alcohol which is not declared upon the label. It was ascertained in connection with the examination of the product that it was manufactured in the United States. Misbranding of the product was alleged in the information for the reason that it was labeled and branded so as to deceive and mislead the purchaser thereof, in that the label of the article would indicate that it was a foreign product, to wit, a product of Italy, when it was not so and was a product of the United States. Misbranding was alleged for the further reason that the product purported to be a foreign product, to wit, a product of Italy, when it was not so, but was a product of the United States. Misbranding was alleged for the further reason that it failed to bear a statement on the label of the package thereof of the quantity or proportion of alcohol contained therein, whereas alcohol was one of the ingredients of said drug to the extent of 46.16 per cent by volume.

On November 5, 1913, the defendant entered a plea of guilty to the information, and the court imposed a fine of $40.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2948. Adulteration and misbranding of vermouth. U. S. v. Basilea Calandra Co. Plea of guilty. Fine, $65. (F. & D. No. 4690. I. S. No. 16800-d.)

On April 30, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Basilea Calandra Co., a corporation, New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act on February 23, 1912, from the State of New York into the State of Louisiana, of a quantity of vermouth, which was adulterated and misbranded. The product was labeled: "Vermouth Bascal Compounded." (In Italian) "Confezionato per esportazione," a translation of which is "Prepared for export." The label also contained foreign designs and pictures.

Analysis of a sample of the product by the Bureau of Chemistry of this department showed it to consist of an imitation vermouth prepared in large part of dilute alcoholic spirits. Adulteration of the product was alleged in the information for the reason that there was substituted for the genuine article vermouth another substance, to wit, a mixture of water, alcohol, and herbs, and that it was, in fact, an imitation vermouth.

Misbranding of the product was alleged for the reason that the label thereof bore statements, designs, and devices regarding the article and ingredients and substances contained therein which were false and misleading, and said label was calculated to deceive and mislead the purchaser thereof, in that it would indicate that the article was imported from Italy, whereas, in truth and in fact, it was manufactured in the United States, and in that said article purported to be a foreign product, when it was not so, but was a product of the United States, and said article was further misbranded, in that it was sold under the distinctive name of another article, to wit, vermouth, and said article was not vermouth, but was an imitation thereof. Misbranding was alleged for the further reason that the statement on the label of the article regarding it, to the effect that it was vermouth, was false and misleading, in that said article was not vermouth, but was an imitation vermouth consisting of a mixture of alcohol, water, and herbs.

On November 14, 1913, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $65.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2949. Adulteration and misbranding of "liquid smoke." U. S. v. Figaro Chemical Co. Plea of guilty. Fine, $50 and costs. (F. & D. No. 4692. I. S. No. 15637-d.)

On November 5, 1912, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Figaro Chemical Co., a corporation organized under the laws of the State of Arizona and engaged in business at Dallas, Tex., alleging shipment by said company in violation of the Food and Drugs Act on October 17, 1911, from the State of Texas into the State of Missouri, of a quantity of so-called liquid smoke, which was adulterated and misbranded. The product was labeled: "Figaro Preservar Trade Mark A Liquid Smoke manufactured only by Figaro Chemical Company, Dallas, Texas. Figaro Preservar and Liquid containing all the properties of wood smoke * * * Figaro Preservar was patented August 20th, 1907. There can be no substitute. We hereby guarantee our product under the United States Food and Drug Act of June 30th, 1906; Serial No. 3923 * * * Figaro Chemical Company, Dallas, Texas."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results: The odor, general appearance, precipitated and dissolved tar, acidity, behavior on distillation, neutralization, and oxidation, together with the presence of methyl alcohol and acetone, indicated that this product was pyroligneous acid. Adulteration of the product was alleged in the information for the reason that it contained an added poisonous or deleterious ingredient which might render it injurious to health, to wit, wood alcohol. Misbranding was alleged for the reason that the product was labeled as above set forth, which label and labels were untrue and were false and misleading in that the product was not liquid smoke, but was in fact a solution of crude pyroligneous acid.

On January 17, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $50 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2950. Misbranding of sirup. U. S. v. Colorado Syrup Co. Plea of guilty. Fine, $1 and costs. (F. & D. No. 4701. I. S. No. 18173-d.)

On April 30, 1913, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Colorado Syrup Co., a corporation, Denver, Colo., alleging shipment by said company, in violation of the Food and

Drugs Act, on March 1, 1912, from the State of Colorado into the State of Texas, of a quantity of sirup, which was misbranded. The product was labeled: "Vincent's Sugar Maple Flavor Syrup, guaranteed free from glucose, Colorado Syrup Co., Denver, Colo., 2½ lbs. net."

Examination of eight samples of the product by the Bureau of Chemistry of this department showed the following results: Net weight, sample No. 1, 2.22 pounds; net weight, sample No. 2, 2.11 pounds; net weight, sample No. 3, 2.16 pounds; net weight, sample No. 4, 2.14 pounds; net weight, sample No. 5, 2.24 pounds; net weight, sample No. 6, 2.21 pounds; net weight, sample No. 7, 2.16 pounds; net weight, sample No. 8, 2.21 pounds; average net weight, 8 samples, 2.18 pounds; average shortage, 12.8 per cent. Misbranding of the product was alleged in the information for the reason that the labels on the cans were false and misleading, and so worded as to deceive and mislead purchasers into the belief that each of the cans contained 2½ pounds, or 40 ounces, of sirup, whereas, in truth and in fact, each of the cans did not contain 2½ pounds, or 40 ounces, of sirup, as marked and branded on said labels, but, on the contrary, each of the cans contained a much smaller amount, to wit, not more than 2.24 pounds, or 35.84 ounces, of said sirup. Misbranding was alleged for the further reason that the labels on the cans did not correctly state the weight of the contents of said cans for the reason that each of said cans did not contain 2½ pounds, or 40 ounces, of sirup, but instead contained a very much smaller amount, to wit, not more than 2.24 pounds, or 35.84 ounces.

On May 27, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $1 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2951. Misbranding of chewing gum. U. S. v. The Sen-Sen Chiclet Co. Plea of guilty. Fine, $25 and costs. (F. & D. No. 4709. I. S. No. 17487-d.)

On March 12, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Sen-Sen Chiclet Co., a corporation organized under the laws of the State of Maine, with a factory at Salem, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 31, 1911, from the State of Ohio into the State of Illinois, of a quantity of chewing gum which was misbranded. The product was labeled: (On box) "Wintergreen, U. S. Serial Number 2274 Guaranteed under the Food and Drugs Act, June 30, 1906. 20 S. Jumbo Pepsin Gum 20S 20–5¢ Packages. Retail Value $1.00." (Around 30 tablets) "Groves Jumbo Gum (picture of elephant with Jumbo Pepsin Gum on blanket) 5¢ Wintergreen 30 Tablets 5¢ Jumbo Pepsin Gum Largest Package on earth for 5 cents. Quality Finest Manufactured by The Grove Company, 233 B'way, Salem, Ohio, U. S. A. 30 Tablets 5¢." (Around one stick) "Jumbo Pepsin Gum. Grove's Jumbo Gum (picture of elephant with word "pepsin" on blanket). Trade name registered January 30th, 1905. Jumbo Pepsin Gum. This is a Delicious and Valuable remedy for Indigestion and Dyspepsia Manufactured by Sen-Sen Chiclet Co. Successors to The Grove Co." Analysis of a sample of the product by the Bureau of Chemistry of this department showed that pepsin was absent therefrom. Misbranding of the product was alleged in the information for the reason that the statement on the label thereof "Jumbo Pepsin Gum" was false and misleading, in that it conveyed the impression that the product contained pepsin, whereas, in truth and in fact, it contained no pepsin.

On April 2, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2952. Misbranding of a liqueur and cordial sirup. U. S. v. William P. Bernagozzi, Robert Bernagozzi, and Ferdinando Bernagozzi. Plea of guilty. Fine, $100. (F. & D. Nos. 4712, 4713. I. S. Nos. 20727-d, 20728-d.)

On May 7, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in two counts against William P. Bernagozzi, Robert Bernagozzi, and Ferdinando Bernagozzi, doing business under the firm name and style of W. P. Bernagozzi & Bros., New York, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, from the State of New York into the State of New Jersey—

(1) On March 18, 1912, of a quantity of so-called "Liqueur Superfine Fiori Calabria," which was misbranded. The product was labeled, "Qualita Superiore Liqueur Superfine, Fiori di Calabria Bernag Cordial Brand, WPB." Analysis of a sample of the product by the Bureau of Chemistry of this department showed it to be an artificially colored cordial. Misbranding of the product was alleged in the first count of the information for the reason that the label thereof regarding it was false and misleading and was calculated to mislead and deceive the purchaser thereof, in that said label would indicate that the article was a foreign product, to wit, a product of Calabria, Italy, when it was not so, but was a product of the United States, and said article was further misbranded in that it purported to be a foreign product, to wit, a product of Italy, when it was not so, but a product of the United States.

(2) On February 17, 1912, of a quantity of so-called "Streghe Berna Cordial," which was misbranded. This product was labeled: "Streghe Berna Cordial, Guaranteed under the National Pure Food Law, Serial No. 4438. (In upper corners respectively a United States shield with white cross.) Streghe Bernag Bernag Cordial Brand WPB." Analysis of a sample of the product by the Bureau of Chemistry of this department showed it to be an artificially colored cordial. Misbranding of the product was alleged in the second count of the information for the reason that the label thereon bore statements, designs, and devices regarding it which were false and misleading, and said label was calculated to deceive and mislead the purchaser thereof in that it would indicate that the article was a foreign product, to wit, a product of Italy, whereas, in truth and in fact, it was a product of the United States, and it was further misbranded in that it purported to be a foreign product, to wit, a product of Italy, when it was not so, but a product of the United States.

On May 19, 1913, defendants entered a plea of guilty to the information, and the court imposed a fine of $100.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2953. Adulteration of oil of red thyme. U. S. v. Brunswig Drug Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4718. I. S. No. 3562-d.)

On April 4, 1913, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Brunswig Drug Co., a corporation, Los Angeles, Cal., alleging shipment by said company, in violation of the Food and Drugs Act, on or about August 16, 1911, from the State of California into the then Territory, now State, of Arizona, of a quantity of oil of red thyme which was adulterated.

The product was labeled: "1 pound. Oil of Origanum (Oil of Thyme Red) Guaranty legend Serial No. 276. Brunswig Drug Co., Wholesale Druggists, Manufacturing Chemists Los Angeles, San Diego." (Sublabel on back of bottle) "Specific gravity .896."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity, 25° C.	0.90
Optical rotation, 20° C. (100 mm tube)	−8.7
Phenols (per cent)	14
Refractive index at 20° C.	1.4805
Distillation test below 180° C. (per cent)	60
Distillation test between 180°–220° C. (per cent)	20
Distillation test between 220°–250° C. (per cent)	10

Fraction 155°–165° C. was tested for pinene. Nitroso chlorid formed, M. P.=104° C. (uncorrected); pinene microscopically positive.

Adulteration of the product was alleged in the information for the reason that it was sold under a name recognized in the United States Pharmacopœia, to wit, oil of thyme, and differed from the standard of strength, quality, and purity for oil of thyme, as determined by the tests laid down in said Pharmacopœia official at the time of investigation, in that it contained turpentine, was deficient in thymol and high in rotation, and its own standard of strength, quality, and purity was not stated upon the bottle in which it was contained at the time it was so shipped.

On May 13, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2954. Misbranding of cottonseed meal. U. S. v. J. Lindsay Wells (J. Lindsay Wells Commission Co.). Plea of guilty. Fine, $100 and costs. (F. & D. No. 4719. I. S. No. 8620-d.)

On September 3, 1913, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against J. Lindsay Wells, doing business and trading under the name of J. Lindsay Wells Commission Co., Memphis, Tenn., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about October 20, 1911, from the State of Tennessee into the State of Virginia, of a quantity of cottonseed meal which was misbranded. The product was labeled: "J. Lindsay Wells, Memphis, Tenn. Prime finely Ground Sun Brand Cotton Seed Meal; Sacks of 100 lbs. each. Sold basis analysis: Ammonia 8 to 8½%; Nitrogen 6½ to 7%; Protein 41 to 45%; Oil and Fat 7 to 8%; Crude Fibre 9 to 10%. This meal is made from decorticated cotton seed."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Total nitrogen (per cent)	6.10
Protein (6.10 by 6.25) (per cent)	38.13
Fats (ether extract) (per cent)	7.89
Crude fiber (per cent)	9.23
Water (per cent)	8.15
Ash (per cent)	6.94

Misbranding of the product was alleged in the information for the reason that it bore certain brands and labels purporting to state thereon the ingredients thereof, which said label was in the words and figures set forth above, and which said label set forth that the cottonseed meal contained from 41 to 45 per cent protein, 7 to 8 per cent oil and fat, 6½ to 7 per cent nitrogen, 8 to 8½ per cent ammonia, whereas, in truth and in fact, it did not contain 8 to 8½ per cent ammonia, 6½ to 7 per cent nitrogen, 7 to 8 per cent oil and fat, and from 41 to 45 per cent protein, but, in truth and in fact, contained

a much less amount of said ingredients; that the representations and statements upon said brands and labels upon the cottonseed meal were false, untrue, misleading, and calculated to deceive the purchaser or purchasers of said cottonseed meal.

On December 31, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $100, with costs of $12.75.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2955. Misbranding of Elixir Tripoli. U. S. v. Italian Importing Co. Plea of guilty. Fine, $35. (F. & D. No. 4721. I. S. No. 20738-d.)

On June 23, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Italian Importing Co., a corporation, New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on March 14, 1912, from the State of New York into the State of Pennsylvania, of a quantity of so-called Elixir Tripoli, which was misbranded. The product was labeled: "Elixir Tripoli. High Class Cordial. Liquore Finnissimo. Guaranteed by Italian Importing Company, New York. Under Serial No. 19441." The label also bore a design indicating Arabs and camels. From an examination of a sample of the product by the Bureau of Chemistry of this department, it appeared that the same was manufactured in the United States. Misbranding of the product was alleged in the information, for the reason that it was branded and labeled so as to deceive and mislead the purchaser thereof, in that the label thereon bore statements, designs, and devices regarding the article and the ingredients and substances contained therein which were false and misleading, in that said statements, designs, and devices would indicate that the article was a foreign product, to wit, a product of Tripoli, whereas, in truth and in fact, it was a product of the United States. Misbranding was alleged for the further reason that the article purported to be a foreign product, to wit, a product of Tripoli, when it was not so, but was a product of the United States.

On October 20, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $35.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2956. Adulteration and misbranding of condensed milk. U. S. v. Sumner G. Berry. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4727. I. S. Nos. 124-e, 125-e, and 126-e.)

On February 13, 1913, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Sumner G. Berry, doing business under the name and style of Ashley Milk Co., Ashley, Ill., alleging shipment by said defendant, in violation of the Food and Drugs Act, on August 26, 1912, from the State of Illinois into the State of Missouri, of a quantity of condensed milk which was adulterated and misbranded. The product was labeled:

(Sample No. 1): (On can top) "S. M. C. Co., Nashville, Ill." (Side) "Ashley Milk Co., Ashley, Ill." (Tag) "Bill inside this tag. To American I. C. Co., St. Louis, Mo. No. cans in shipment—date—Wash cans and return promptly to Ashley Milk Co., Ashley, Ill." (Tag) "Louisville & Nashville R. R. Co. When filled this can is to be delivered to American I. C. Co., St. Louis, Mo., 1411."

(Sample No. 2): (On can top) "Ashley, Ill." (Side) "Ashley Milk Co., Ashley, Ill." (Tag) "Louisville & Nashville R. R. Co. When filled this can is to be delivered to American I. C. Co., St. Louis, Mo., 1412."

(Sample No. 3): (On can top) "Ashley, Ill." (Side) "Ashley Milk Co., Ashley, Ill." (Tag) "Louisville & Nashville R. R. Co. When filled this can is to be delivered to American I. C. Co., St. Louis, Mo., 1414."

Analysis of samples of the product by the Bureau of Chemistry of this department showed the following results:

	Sample No. 1.	Sample No. 2.	Sample No. 3.
	Per cent.	*Per cent.*	*Per cent.*
Solids by evaporation	29.08	28.03	28.00
Fat by Roese Gottlieb	6.05	5.85	5.81
Solids not fat	23.03	22.18	22.19
Fat in solids	20.80	20.87	20.75

Adulteration of the product was alleged in the information for the reason that a valuable constituent thereof, to wit, fat, was in part abstracted therefrom. Misbranding was alleged for the reason that the product was offered for sale under the distinctive name of another article, to wit, 10 per cent condensed whole milk—that is to say, milk containing 10 per cent fat—whereas, in truth and in fact, it was not 10 per cent condensed whole milk, and did not contain 10 per cent fat, but on the contrary contained only, to wit, 6 per cent of fat.

On May 7, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $10 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2957. Adulteration and misbranding of mace. U. S. v. Ohio Spice & Extract Co. Plea of nolo contendere. Fine, $25 and costs. (F. & D. No. 4731. I. S. No. 21328-d.)

On April 3, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Ohio Spice & Extract Co., a corporation, Toledo, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about December 4, 1911, from the State of Ohio into the State of Missouri, of a quantity of mace which was adulterated and misbranded. The product was labeled: "Guthrie's Best Mace. Guaranteed Pure Ground Especially for Guthrie's Mercantile Co., Bakers' and Confectioners' Supplies—Wholesale Flour—St. Joseph, Mo." Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Nonvolatile ether extract (per cent)	40.04
Ash (per cent)	4.11
Ash insoluble in HCl (per cent)	0.26
Crude fiber (per cent)	4.40
Hefelmann's test for Bombay mace	Positive.
Waage's test for Bombay mace	Positive.

Microscopic examination showed that the product contained a large amount of Bombay mace. Adulteration of the product was alleged in the information for the reason that a substance, to wit, Bombay or false mace had been mixed or packed with it so as to reduce and lower and injuriously affect its quality and strength, said substance having been substituted wholly or in part for pure, genuine mace, which the article purported to be. Misbranding of the product was alleged for the reason that the statement on the label thereof "Guthrie's Best Mace" was false and misleading, in that it conveyed the impression that the article was pure mace, whereas, in fact, it consisted in whole or in part of Bombay or false mace. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser into believing it was pure mace, whereas, in fact, it was Bombay or false mace.

On November 28, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2958. Misbranding of rice. U. S. v. McFadden, Wiess-Kyle Rice Milling Co. Tried to a jury; verdict of guilty by direction of court. Fine, $100 and costs. (F. & D. Nos. 4735, 4749. I. S. Nos. 18168-d, 12406-d.)

On February 12, 1913, the United States attorney for the eastern district of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against the McFaddin, Wiess-Kyle Rice Milling Co., a corporation, Beaumont, Tex., alleging shipment by said defendant, in violation of the Food and Drugs Act, on October 18, 1911, and March 21, 1912, from the State of Texas into the State of Arizona, of quantities of rice which was misbranded. The shipment of October 18, 1911, was labeled (on sacks), "Two Pounds McFaddin's Brand Honduras Fancy Head Rice Packed by McFaddin-Wiess-Kyle Rice Milling Co., Beaumont, Texas." (On back of sacks, in small type) "* * * This rice is finished by a coating of glucose and talc, which is easily removed by washing * * *."

Analysis of a sample of this product by the Bureau of Chemistry of this department showed the following results: Glucose, present (erythrodextrin and reducing sugar test, both positive); talc, present (magnesium, present; silica, present); average net weight, 3 bags, 1.95 pounds; average net weight was found by weighing each of the three bags and subtracting from each weight the tare of one bag.

The shipment of March 21, 1912, was labeled, "Two Pounds McFaddin's Rice Texas Greatest Mill Daily Capacity 2500 Barrels Packed by McFadin-Wiess-Kyle Rice Milling Co., Incorporated, Beaumont, Texas." (In small type on back of bag) "* * * This rice is finished by a coating of glucose and talc, which is easily removed by washing * * *."

Analysis of a sample of this product by said Bureau of Chemistry showed the following results: Average net weight of 8 bags, 1.930 pounds; glucose, present; talc, present; superficial moisture, 9.24 per cent; superficial moisture determined by heating whole grains at 100° C. for three hours.

Misbranding of each product was alleged in the information for the reason that each was labeled as set forth above, and the word "rice" so printed in the label was false and misleading because it created the impression that the product was pure rice, when, as a matter of fact, it was not such, but was rice coated with glucose and talc, the statement, "This rice is finished by a coating of glucose and talc," which appeared inconspicuously in small type on the back of the bag, not being sufficient to correct the false impression created by the statement "rice" so printed in large letters on the front of the bag, and each product was found misbranded in that it was labeled and branded so as to deceive and mislead the purchaser, being labeled "rice," when, as a matter of fact, it was not pure rice, but was rice coated with glucose and talc, the statement, "This rice is finished by a coating of glucose and talc," which appeared inconspicuously in small type on the back of the bag, not being sufficient to correct the false impression created by the word "rice" so printed in large letters upon the front of the bag. Misbranding of each product was alleged for the further reason that the statement "Two Pounds" borne on the label was false and misleading, because it created the impression that the sacks contained two pounds of rice, when, in as a matter of fact, they did not contain two pounds, and were short in weight. Misbranding was alleged for the further reason that the product was labeled and branded so as to mislead the purchaser, being labeled "Two Pounds," when, as a matter of fact, the product did not contain two pounds, but was short in weight and was further misbranded in that it was in package form and the contents were stated in terms of weight, but were not plainly and correctly stated on the outside of the packages.

On April 8, 1913, the case having come on for trial before the court and a jury, a verdict of guilty was returned by the jury, and the court imposed a fine of $100 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2959. Alleged misbranding of macaroni. U. S. v. 175 Boxes of Macaroni. Tried to the court and a jury. Verdict for the claimant. Libel dismissed. (F. & D. No. 4736. S. No. 1557.)

On November 1, 1912, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 175 boxes of macaroni remaining unsold in the original unbroken packages at Boston, Mass., alleging that the product had been shipped by the Atlantic Macaroni Co., Long Island City, N. Y., and transported from the State of New York into the State of Massachusetts, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Macaroni Mosca Brand Artificially colored Guaranteed by manufacturer serial number thirty eight hundred and eighty." The label also bore a bay scene with macaroni stand characteristic of Italian sections. The entire scenic design was suggestive of foreign origin. The first three words of the label were in large type, while the words "artificially colored" were in small type and arranged in an inconspicuous manner on the lower portion of the label.

Misbranding of the product was alleged in the libel for the reason that said food, upon the packages and labels thereof, bore a certain statement, design, and device regarding the ingredients and substances contained in said food, that is to say, the words "artificially colored" printed thereon in an inconspicuous manner, which said statement, design, and device was false and misleading in that by reason of said inconspicuous appearance of said words a purchaser would thereby be led to believe that said food did not contain artificial coloring matter, whereas it did, and further, in that said food upon said packages and labels thereof bore a certain statement, design, and device regarding the ingredients and substances contained in said food, that is to say, pictures and scenes portrayed upon each of said packages in similitude and likeness to pictures and scenery of a certain foreign country, to wit, Italy, which said statement, design, and device was false and misleading in that it would lead a purchaser to believe that said food was of foreign origin, whereas in truth and in fact it was not of foreign origin.

On December 11, 1912, the Atlantic Macaroni Co., claimant, filed its answer, denying the allegation of misbranding in the libel. On January 9, 1913, the case having come on for hearing, before the court and a jury, after the submission of evidence and argument by counsel, the following charge to the jury was delivered, with interrogatories, by the Court (Hale, *J.*):

Mr. Foreman and Gentlemen of the Jury: A statute of the United States, called the pure food law, provides "that it shall be unlawful for any person to manufacture within any Territory" of the United States "any article of food or drug which is adulterated or misbranded, within the meaning of" the act. It further provides "that the term 'misbranded,' as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading." And it further provides that, if the article "be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so," it shall be deemed to be misbranded.

The Government in this case seeks to condemn 175 boxes of macaroni, which they say "have been transported from Long Island City in the State of New York, that is to say, from the Atlantic Macaroni Co. at Long Island City, into the Commonwealth of Massachusetts, to wit, at Boston in said District of Massachusetts, and remain in original packages at said Boston in the possession of parties to your informant unknown; that the food contained in said boxes is misbranded within the meaning of" this act

of Congress, in two respects: First, that "the words 'artificially colored' are printed thereon in an inconspicuous manner, which said statement, design, and device was false and misleading, in that by reason of said inconspicuous appearance of said words a purchaser would thereby be led to believe that said food did not then and there contain artificial coloring matter, whereas it did"; and, second, that the label "contained pictures and scenes portrayed upon each of said packages in similitude and likeness to pictures and scenery of a certain foreign country, to wit, Italy, which said statement, design, and device was false and misleading, in that it would lead a purchaser to believe that said food was of foreign origin, whereas in truth and in fact said food was not of foreign origin."

The information proceeds, as I have said, against certain distinct things, namely, 175 boxes of macaroni.

A claimant appears, namely, the Atlantic Macaroni Co., and claims the goods. I do not think that it is necessary for me to read the claim and answer. It says that the goods are not misbranded; that, for the reasons set out, the goods contained in these boxes are entirely free from the charges in the information.

Now, gentlemen, these questions of fact are before this jury. Juries are to pass upon all questions of fact. In the Federal court the jury is the judge of the facts; and, while the court may express an opinion upon all questions of fact, it is the jury's opinion that prevails upon questions of fact; and if you think you discover in any way what the court thinks upon any question of fact, it is not the court's opinion that prevails upon a question of fact, but it is yours. On the other hand, it is the duty of the court to tell you what the law is upon the subject, and you ought to take the law from the court.

Now, I have said that the jury is to pass upon all questions of fact. You are the judges of what belief any witness produces in your mind. It is what conclusion you form, what belief you find in your mind, as the result of all the testimony in the case. You hear the testimony of each witness, and the probative value, as it is called, of his testimony, is for you to pass upon. And let me say that all questions of evidence, too, what a witness has said, is for you; and if I quote what a witness says I may do it in an incomplete and inadequate way; so that it is for you to say what the witness has said; and, as I have said before, it is for you to say what belief is induced in your minds, and what conclusion is produced by the testimony of the witness.

Now, the Government says, first, that the words "artificially colored" were printed on the label involved in this case "in an inconspicuous manner, which said statement, design, and device was false and misleading, in that by reason of said inconspicuous appearance of said words a purchaser would thereby be led to believe that said food did not then and there contain artificial coloring matter, whereas it did."

Now, you have heard the testimony in the case. The Government says, first, that the goods contained artificial coloring matter. The burden of proof upon this issue, as upon all issues where the Government has the affirmative to show, is upon the Government. By "burden of proof" I mean, as an eminent author has put it, "the risk of nonpersuasion." That is, if they do not persuade you that that is true, they fail.

Now, briefly, the Government says, on this question of artificial coloring matter, that the coloring matter in these goods was something more than a trace—it was an actual amount of coloring matter. They have put on an expert, who says that he made an examination of the stuff itself, and he has produced the results of the coloring matter on wool. He says that the coloring matter was of a harmless kind, was of a kind that has been passed upon by the Government as being of a harmless variety, but that there was enough coloring matter in it to color goods somewhat; and he has, as I say, produced a piece of wool that he says was colored by it. He says, further, that he does not know that it would have the same effect upon the macaroni that it would have upon the wool.

Now, the defense, the claimant, says that the coloring matter in the material was a mere trace, was of an inconsiderable amount, and it says that it came in this way: That in their vats they put material that contained harmless coloring matter for some trade—the Porto Rico trade, I think—and that sometimes, without washing the teeth of the vat, and cleaning out the vat entirely, they proceeded to put into the vat the material for the macaroni, a part of which we have in this case, and that a trace of the coloring matter that was in the previous batch remained in the vat, but not sufficient to be more than a mere trace.

Now, there is no issue in this case under section 7, subsection fifth, of the Food and Drugs Act of June 30, 1906, as it is not charged or claimed by the Government that there is any added poisonous or deleterious ingredient which may be injurious to health in the macaroni in this case.

The mere presence of a small amount, a trace, of harmless coloring matter, found by a chemist in food the natural color of which is not changed by such matter, when combined with the label in this case, is not a false or misleading statement, design, or device of anything in or about said food within the act.

The provisions in the act with regard to color are exclusive, and amount to a legislative declaration that if the color be harmless, the article genuine, and the color not to conceal inferiority or damage, nothing special need be on the label.

Now, then, gentlemen, your first question is whether, in fact, this article did contain coloring matter, anything more than a mere trace. I have told you what the Government says and what the claimant says. The burden is on the Government to satisfy you, by a fair preponderance of evidence in the case. If the Government fails to satisfy you, by a fair preponderance of evidence in the case, that there was coloring matter, more than a mere trace, then it fails on this proposition, and of course if there was no coloring matter there need not be anything on the label about it, and it would be unnecessary for you to come to the next question.

I say "preponderance of evidence." It is the duty of the Government to satisfy you, by a preponderance of the evidence; and I mean by that, gentlemen, any evidence that tips the scale in your mind. You come into this court, gentlemen, with your minds absolutely all in balance. You are to try the question of fact. Now, anything that tips the scale in your mind is called the preponderance of evidence. And let me say, gentlemen, these questions are very serious questions. The rights of the parties, the rights of the Government, and the rights of the claimant, are involved here; and the court has the same right to look to you for a perfectly fair passing upon each question of fact that you have to look to the court for the same judicial qualities. The jury, in other words, are as distinctly a judicial body as the court, and it is the duty of each one of you to take each question in its natural way, precisely as you would take any question in your own town, submitted to you by good neighbors, and pass upon it fairly and fully.

Now, if you come to the conclusion that the Government has met the burden of showing that there was a considerable amount of coloring matter in the material—that is, more than a trace—then you will come to the question of whether or not the Government is right in its contention that the words "artificially colored," printed on the label, were printed "in an inconspicuous manner, which said statement, design, and device was false and misleading, in that by reason of said inconspicuous appearance of said words a purchaser would thereby be led to believe that said food did not then and there contain artificial coloring matter."

Now, the label is before you. The issue upon that question is, Did the label—does the label—tend to mislead a reasonably intelligent man into believing that the goods were of a natural color, when in fact they were of an artificial color? Here the burden, too, is upon the Government. They produce the label; they say that the words "artificially colored" are put upon the label in so inconspicuous a manner that they tend not to disclose, but to deceive; that is, that they are purposely put upon it in so indefined and inconspicuous a way that they do not attract attention, and that the effect of it is that it deceives a purchaser, an ordinarily intelligent man, naturally, into believing that the label is not upon goods which are naturally colored.

Now, the claimant says, on the other hand, that the words "artificially colored" are in the ordinary place that you would look for them; that they are printed precisely like the other printing upon the label, as to which there is no pretense that there is any question of concealment; that they are printed in letters precisely like the letters in which the words "guaranteed by manufacturer serial number thirty-eight hundred and eighty" are printed; that they are printed in a clear type; and that, if anybody looks at the label as he would look at any label to read it, he would read the words "artificially colored" precisely as readily as he would read the other printing upon the label; and that the words are printed precisely as a reasonable man would expect them to be printed.

Now, gentlemen, the question is for you. Has the Government satisfied you, by a preponderance of evidence, that those words are printed upon there in such a way as to have the effect upon a reasonably intelligent man of deceiving him into believing that the label signifies that the box contains goods of the natural color, instead of being artificially colored? The burden is upon the Government. If the Government fails, by a preponderance of evidence, to induce the belief in your mind that that label tends to deceive a reasonably intelligent man into believing that the goods are of the natural color, when in fact they are not, then you will find for the Government [claimant]. If they have failed in that, then they have failed in that contention, and your verdict should be, in that respect, for the claimant.

They have one further contention, as I have said. They claim that the label itself bears a certain design and device, that is to say, "pictures and scenes portrayed upon

each of said packages in similitude and likeness to pictures and scenery of a certain foreign country, to wit, Italy"; that said "design and device was false and misleading, in that it would lead a purchaser to believe that said food was of foreign origin, whereas, in truth and in fact, said food was not of foreign origin."

Now, the question for you to pass upon in that is a very simple, plain question of fact: Did the label tend to mislead a reasonably intelligent person into believing that the goods sold under the label were of foreign origin? It is not a question of whether one person might possibly be misled by what he sees upon the label, but it is a question of the reasonable signification that the label in that respect would bear, as to whether the material is of foreign origin.

Here let me say that when a case is well tried by faithful and earnest and zealous counsel, as this has been, the court sometimes lets in evidence which does not assist the jury any on the whole in coming to a conclusion. I have thought it best, in this regard, to allow to come before the jury certain boxes upon which labels were pasted, because the labels were pasted upon them, and as a part of what Mr. Greenleaf calls "the setting of the case." But, so far as the testimony is concerned, you are to look to the labels, and not to the boxes. It is a question of the construction of the label. The statute does not require the place of manufacture to be stated on the label, if the label is not false or misleading in this respect. The claimant, as I have already told you, in regard to the boxes has a right to use such words as have been referred to to indicate the shape or style on its boxes, if there is nothing there used which tends to deceive, and you must consider the label without reference to the boxes; that is, I mean by that, you have nothing to do with the boxes, as to whether they tend to deceive or not; it is the label which you are considering, and to which I confine your attention in that regard, and not the boxes.

The statute clearly does not require or permit the department to require that the place where an article is manufactured shall appear on the label.

The statute clearly does not require or permit the department to require that the name of the manufacturer of the article should appear on the label.

The statute is drawn in such a way as to expressly permi the omission of the name of the manufacturer and of the place of manufacture.

The issue, then, is left upon the label, clearly and distinctly. Does the label tend to mislead a reasonably intelligent person into believing that the goods sold under it were of foreign origin? Let us look at the label, then.

Now, the Government says that that label represents, and is intended to convey to the mind of a purchaser, a reasonably intelligent man, that it is a foreign thing that he is looking at, and to get into his mind that that is a foreign product which is to be sold under that label. They say that there is something about the hills, the scene portrayed there, that indicates something about Italy, the Bay of Naples, and something about Italy; that there is something in the form of the trees that indicates an Italian tree, a Lombardy poplar, or some Italian tree; that there is something about the form and appearance of the peasantry, the boys and the girl, that indicates Italian peasantry; and that there is something, on the whole, as you look at the label, that clearly indicates, and is intended to indicate to the purchaser, that that label represents a foreign label, and that it deceives a person buying the goods into thinking that he is buying goods of foreign origin, and not of domestic origin. Has the Government met the burden of inducing the belief in your mind that that is so?

Now, the claimant says that not only is it not so, but that it is much more than true that the Government has not met the contention of showing that this label indicates a foreign product, because the claimant says that the label clearly indicates a domestic product, and the claimant's counsel points to certain labels—where is the blue label?

Mr. Hale. Your Honor has it separate from the box, but this is the same label, it is agreed by the parties.

The Court. Yes; I know it is. This is it, is it not?

Mr. Hale. Yes.

The Court. Now, the claimant says that it is generally true of foreign labels, labels that are clearly intended to represent goods that are a foreign product, that they have a volcanic hill, a peaked hill, with smoke issuing from it, and that the hills represented here in the label brought before you are flattened, and that they are distinctly different hills; that the difference is so conspicuous that any man must see at a glance that it is a different scene, that they are different hills—in other words, that it is an American view that is represented, that the hills represent what you would naturally expect in an American hill, and that the wheat field is represented as showing sheaves such as appear in America, and as do not appear in Italy.

The claimant says, further, that the label contains upon it what is not found, at least generally, in foreign labels; that it is not at all a foreign label so far as the guar-

anty of the manufacturer is concerned—these words down here in the corner—and that the words "Mosca brand" clearly are no designation by Italian words of an Italian brand, indicating that it is a brand made in Italy; that the English word "brand" is used, whereas in the Italian labels Italian words are used; and that there is nothing in the label in question brought before you which tends to deceive, or would be likely to deceive, the average intelligent man into thinking that he was buying, under that label, a foreign product.

Now, here the burden is upon the Government. Have they, on the whole, induced the belief in your minds that this label is calculated to deceive a reasonably intelligent man into believing that that label signifies a foreign product? If you find, by a preponderance of evidence, that it is, then you find for the Government; if you fail to find, by a preponderance of evidence, that it is such, you find for the claimant.

Now, gentlemen, I think that I have given you as clearly as I can the questions of fact, which are very simple and very clear. The case has been tried with great clearness and ability, as I said. In many cases the court allows, sometimes more than it ought to, things to come into a case that do not assist the jury any in coming to their conclusions; and so it is the duty of the court to direct the attention of the jury, and direct it as clearly as it can, to the issues which are to be determined, which I have tried to do in this case. Now, gentlemen, the case has been well tried, and there is no reason why you should not agree very promptly upon the questions before you.

The form of verdict, if you agree upon the questions of fact——

Mr. SULLIVAN. May I make a suggestion to your honor?

The COURT. Yes.

(Counsel go to the bench and confer with the court, and the reporter is directed record the following proceedings:)

Mr. SULLIVAN. I would like to have you note that the Government, in view of the court's refusal to correct that portion of the charge relating to the size of the lettering used in the guaranty upon the label, in which the court said that the Government does not contend that the words "artificially colored" differ in size from the lettering in the guaranty, takes exceptions, in that the Government holds that the size of the lettering in the guaranty on the label upon the box is of no concern to it, and is not involved in the law in this case, since the guaranty is intended only to protect the jobber or handler of the product, and might just as well be in any one of many other forms; and that there can be no contrast made here between the guaranty and the words "artificially colored"; that the words "artificially colored" are for the buyer.

The COURT. I am confirmed in thinking that I ought not to say anything more about it. I simply used that as an illustration. The claimant contends—and that is all that I said—that wherever English words appear, they appear in that type; and that is all there is to it.

Mr. SULLIVAN. If your honor please, I do feel——

The COURT. That is all right. Take all your exceptions.

Mr. SULLIVAN. I would prefer to have you mention those things, and mention just what the claimant says, too—that is, mention what we hold in connection with those three things. I would feel better about it; I would feel that this case went to the jury with those things more fairly set before them. You have brought to the attention of the jury the claimant's evidence and contentions, which was very proper, but you have not given us the benefit which would come from mentioning our explanation of them; for instance, the word "Mosca"—its meaning. We hold that "Mosca" is the Italian word for "fly." We hold that the word "brand" is used on imported articles, and therefore has no particular significance in this case. I would like your honor to mention that—namely, our explanation—in connection with the claimant's contentions. I would like those things mentioned. I do not care anything about the picture of the field of wheat.

The COURT. That is, those two things—the "Mosca brand" and the guaranty?

Mr. SULLIVAN. The "Mosca brand" and the guaranty. I would feel better about it.

Mr. HALE. I submit that it would be unfair. My brother has given you an eloquent argument upon it, and asked you to pass it on to the jury.

Mr. SULLIVAN. It is not unfair.

Mr. HALE. The emphasis in the last sentence or two is always unfair.

Mr. SULLIVAN. It is not unfair. I would like to have the court mention my contentions in connection with yours.

The COURT. There should not be the least question about it, but, inasmuch as it is purely a question of fact, and inasmuch as I have gone over the Government's contentions once, if I keep repeating them, it will appear that——

Mr. SULLIVAN. But you haven't, your honor.

Mr. HALE. I have requested you to give a number of instructions to the jury, and wherever you have not given them——

The COURT. Wherever I have not given them, in substance, your exceptions will be saved.

Now, as to the form of the verdict. Do you care anything about the form?

Mr. HALE. I do.

The COURT. The jury may be excused. You may leave your seats, gentlemen, for a little time.

(The jurors retire from the court room, and the court and counsel go to the judges's lobby to prepare questions to be answered in the verdict. At 11.26 a. m. the jurors again take their seats on the panel, and the following proceedings are had:)

The COURT. Gentlemen, the verdict is in the form of questions to be answered by the jury. The questions are as follows:

1. Is the label such as to mislead a reasonably intelligent man into believing that the goods to be sold under it did not contain artificial coloring matter, when in fact they did?

2. Did the 175 boxes of macaroni in this case contain a substantial amount of coloring matter?

3. Is the label misleading in that the picture and scenes thereon are such a statement, design, and device as would lead a reasonably intelligent purchaser to believe that the goods sold under it were of foreign origin?

Under each of these questions is the word "Answer." The jury will direct their attention to each question, and decide whether the question shall be answered by "Yes" or "No." The foreman is to write the word "Yes" or "No" in accordance with what the jury shall find, after each question, and sign the verdict at the place indicated at the bottom of the paper.

The officer may attend the jury. The counsel will see to it that all exhibits go to the jury room.

The jury after due deliberation returned into the court and rendered its verdict in favor of the claimant, having answered all three interrogatories in the negative, and on January 24, 1913, it was ordered by the court that the libel be dismissed.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *March 30, 1914.*

2960. Adulteration and misbranding of vanilla flavor. U. S. v. The William Haigh Co. Plea of nolo contendere. Fine, $5. (F. & D. No. 4737. I. S. No. 20260-d.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against William Haigh, doing business under the name and style of The William Haigh Co., Baltimore, Md., alleging shipment by said defendant, in violation of the Food and Drugs Act, on January 15, 1912, from the State of Maryland into the State of Ohio, of a quantity of vanilla flavor, which was adulterated and misbranded. The product was labeled: "Special XXXX Vanilla Flavor Special Flavoring for ice cream and candies Prepared from vanilla beans, added vanillin & coumarin. High concentrated Extracts, Fruit Juices, Etc. The William Haigh Co. Manufacturing Chemists 128 S. Calvert St. Baltimore, Md." Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Coumarin (per cent)	0.10
Vanillin (per cent)	0.20
Lead number	0.23
Total solids (per cent)	4.64
Ash (per cent)	0.21
Alkalinity of ash (cc N/10 potassium hydroxid per 100 grams)	28.0
Extract neutral to litmus.	
Reducing sugars (per cent)	0.23
Sucrose (per cent)	3.29

Adulteration of the product was alleged in the information for the reason that certain substances, to wit, vanillin and coumarin, had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and for

the further reason that certain substances, to wit, vanillin and coumarin, had been substituted in part for the article. Misbranding was alleged for the reason that the labels on the product bore the following statement regarding the article, to wit, (in large type) "XXXX Vanilla Flavor," which said statement was false and misleading in that it conveyed to the purchaser thereof that the article was genuine vanilla flavor, whereas, in truth and in fact, it was not a genuine vanilla flavor, but an imitation vanilla flavor containing added vanillin and coumarin, the added statement appearing on the label, "Prepared from vanilla beans, added vanillin and coumarin," being comparatively in very small type and insufficient to correct the impression created by the statement "XXXX Vanilla Flavor." Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled (in large type) "XXXX Vanilla Flavor," thereby creating the impression that the product was a genuine vanilla flavor, whereas in truth and in fact it was not a genuine vanilla flavor but an imitation vanilla flavor containing added vanillin and coumarin, the added statement appearing on the labels, "Prepared from vanilla beans, added vanillin and coumarin," being comparatively in very small type and insufficient to correct the false and misleading impression created by the statement in large type, "XXXX Vanilla Flavor."

On October 9, 1913, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of $5.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2961. Adulteration of canned apples. U. S. v. 100 Cases of Canned Apples. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 4738. S. No. 1556.)

On November 2, 1912, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 100 cases, each containing 2 dozen cans of apples remaining unsold in the original unbroken packages, and in possession of the Smitherman-Stone Co., Winston, N. C., alleging that the product had been shipped by B. L. Crowder, Troutville, Va., on or about October 6, 1911, and transported from the State of Virginia into the State of North Carolina, and charging adulteration in violation of the Food and Drugs Act. The cases were labeled (in pencil) "Apples;" also "Sanitary Tomatoes two dozen (design of tomato) size 3 packed by F. A. Reynolds, Troutville, Va." Each of the cans was labeled: "Cedar Hill Brand Apples. Contents guaranteed to comply with the Pure Food Law, packed by S. A. Shaver, Troutville, Va." Adulteration of the product was alleged in the libel for the reason that it contained and there was mixed therewith gasoline and other petroleum product which was not a normal and desirable constituent of canned apples and which rendered them unpalatable and unfit for food.

On June 12, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal and that the Smitherman-Stone Co. should pay the costs of the proceedings.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., March 30, 1914.

2962. Adulteration and misbranding of mineral water. U. S. v. National Water Co. Plea of nolo contendere. Fine, $10. (F. & D. No. 4743. I. S. No. 1249-d.)

On July 18, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the National Water Co., a corporation, Baltimore, Md., alleging shipment by said company in violation of the Food and Drugs Act, on August 25, 1911, from the State of Maryland into the District of Columbia, of

a quantity of mineral water which was adulterated and misbranded. The product was labeled: "Natural Geneva Spring Mineral Water This bottle should be kept in a cool place Do not dilute with ice * * * Geneva Mineral Water Springs Geneva, N. Y. Nature's Remedy. * * * A pure, natural mineral water * * * Baltimore Depot, 16 Clay St., near Charles * * *" Examination of a sample of the product by the Bureau of Chemistry of this department showed the following results:

	Organisms per cubic centimeter developing after 3 days on plain agar at—	
	25° C.	37° C.
Bottle 1	11,000	3,000
Bottle 2	3,700	1,700
Bottle 3	9,000	9,000
Bottle 4	10,000	18,000
Bottle 5	21,000	22,000
Bottle 6	38,000	32,000

100 *B. coli* group per cc.

	Gas-producing organisms (x=present, 0=absent) developing in bile fermentation tubes after 3 days' incubation at 37° C., in—					
	10 cc.	5 cc.	1 cc.	0.1 cc.	0.01 cc.	0.001 cc.
Bottle 1	x	x	x	x	x	0
Bottle 2	x	x	x	0	0	0
Bottle 3	x	x	x	x	0	0
Bottle 4	x	x	x	x	0	0
Bottle 5	x	x	x	x	0	0
Bottle 6	x	x	x	x	0	0

Adulteration of the product was alleged in the first count of the information for the reason that it consisted in part of filthy, decomposed, and putrid animal substances, to wit, the colon group of organisms. Adulteration was alleged in the second count of the information for the reason that the product consisted in part of a filthy, decomposed, and putrid animal substance, to wit, excremental material of human and animal origin. Misbranding was alleged for the reason that the product was labeled as set forth above, which said statement was false and misleading, in that the water was not pure but was impure and in fact contaminated with excremental matter of human and animal origin. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled as set forth above, which said statement was false and misleading, in that the water was not pure but was in truth and in fact contaminated with excremental matter of human or animal origin.

On October 13, 1913, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2963. Misbranding of bitters. U. S. v. The Nectar Co. Plea of guilty. Fine, $10. (F. & D. No. 4744. I. S. No. 19070-d.)

On March 7, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Nectar Co., a corporation,

New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on December 16, 1911, from the State of New York into the State of Pennsylvania, of a quantity of bitters which was misbranded. The product was labeled: "Casagallo. Ferro-China. Ferro-China Casagallo Celebrated Bitters Alcohol 31%. The Nectar Company—Sole distributors New York. Guaranteed under the food and drugs Act, June 30th 1906. Serial No. 26497. The Nectar Co. Trade mark Casagallo." Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity 15.6°C./15.6°C	1.0142
Alcohol (per cent by volume)	23.70
Methyl alcohol	None.

Misbranding of the product was alleged in the information for the reason that the label set forth above regarding the article and the ingredients and substances contained therein was false and misleading, in that said label indicated that the article contained 31 per cent of alcohol, whereas, in truth, it contained 23.70 per cent of alcohol, and further in that said label would indicate that the article was a product of a foreign country, whereas it was a product of the United States, and, further, in that it purported to be a foreign product, to wit, a product of Italy, whereas, in truth and in fact, it was a product of the United States.

On November 10, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2964. Adulteration and misbranding of vinegar. U. S. v. 23 Barrels of Vinegar. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 4736. S. No. 1562.)

On November 4, 1912, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 23 barrels of vinegar remaining unsold in the original unbroken packages, in possession of the Joyce-Pruitt Co., Roswell, N. Mex., alleging that the product had been shipped on September 25, 1912, and transported in interstate commerce from the State of Missouri into the State of New Mexico, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Monarch Vinegar Works—Pure Apple Cider Vinegar—reduced to not less than 4.5 acid strength. 47 gals. Kansas City, Mo." Adulteration of the product was alleged in the libel for the reason that the barrels purported to contain pure apple cider vinegar, whereas the contents thereof was not in truth pure apple cider vinegar but contained dilute acetic acid and distilled vinegar and mineral matter mixed and packed with it in imitation of cider vinegar and so as to reduce, lower, and injuriously affect its quality and strength, and it was further adulterated for the reason that dilute acetic acid, distilled vinegar, and mineral matter had been substituted wholly or in part for said cider vinegar alleged to be contained in the barrels. Misbranding was alleged for the reason that the barrels and the labels thereof bore certain statements regarding the contents thereof which were false and misleading, and that said barrels were so labeled and branded as to deceive and mislead the purchasers thereof, in that the labels thereon contained the statement that the contents of the barrels was pure apple cider vinegar, which said statement and label were false and misleading, in that the contents of the barrels was not pure apple cider vinegar, but contained dilute acetic acid, distilled vinegar, and mineral matter.

On April 7, 1913, the Monarch Vinegar Works, Kansas City, Mo., claimant, having admitted the allegations in the libel and consented to a decree, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product

should be released and turned over to said claimant upon payment of the costs of the proceedings and the execution of bond in the sum of $500 in conformity with section 10 of the act. B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2965. Misbranding of peanut butter. U. S. v. Julius Koehler (The Royal Peanut Butter Co.) Plea of guilty. Fine, $25 and costs. (F. & D. No. 4757. I. S. No. 37304-e.)

On February 15, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Julius Koehler, trading as The Royal Peanut Butter Co., Cleveland, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about July 22, 1912, from the State of Ohio into the State of Minnesota, of a quantity of peanut butter which was misbranded. The product was labeled: "Home Brand 12 oz." (Picture of home with the words "Trade Mark Registered") "Peanut Butter Healthful, Nutritious, Palatable easily digested Griggs Cooper & Co., St. Paul, Minn." (Label on pasteboard shipping carton similar to the foregoing, with the following added: "1 doz., 25¢ size." Examination of samples of the product by the Bureau of Chemistry of this department showed the following results:

	Ounces.
Weight claimed	12
Net weight:	
Package No. 1	10⅜
Package No. 2	10⅜
Package No. 5	10⅜
Package No. 6	9⅞
Package No. 7	10⅝
Package No. 8	11
Package No. 9	10⅛
Package No. 10	10⅜
Average	10.359
Average shortage (per cent)	13.67

Misbranding of the product was alleged in the information for the reason that the statement on the label thereof "12 oz." was false and misleading, as a number of the packages on which said statement appeared contained less than 12 ounces, to wit, 9⅞, 10⅜, and 11 ounces, respectively, or an average of 10.359 ounces. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser into the belief that each package of the same contained 12 ounces, whereas, in truth and in fact, a number of said packages contained less than 12 ounces, 10 packages showing an average shortage of 13.67 per cent in weight. Misbranding was alleged for the further reason that the article was in package form and the contents thereof were stated in terms of weight, to wit, "12 oz.," which said statement in weight was incorrect, as 10 packages thereof showed an average shortage of 13.67 per cent in weight.

On May 23, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2966. Adulteration and misbranding of grape juice. U. S. v. J. F. Hauser (Monarch Wine Co.). Plea of guilty. Fine, $25 and costs. (F. & D. No. 4758. I. S. No. 21917-d.)

On October 31, 1913, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against J. F. Hauser, doing business

under the firm name and style of the Monarch Wine Co., Kelleys Island, Ohio, alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about June 1, 1912, from the State of Ohio into the State of Illinois, of a quantity of grape juice which was adulterated and misbranded. The product was labeled: "50 Catawba Juice, Chicago. 7." Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity	1.07150
Alcohol (per cent by volume)	0.74
Alcohol (grams per 100 cc)	0.59
Total solids (grams per 100 cc)	18.84
Sugar-free solids (grams per 100 cc)	2.20
Reducing sugar (grams per 100 cc)	16.54
Sucrose	0
Total sugar as invert (grams per 100 cc)	16.64
Total acid as tartaric (grams per 100 cc)	0.570
Fixed acid as tartaric (grams per 100 cc)	0.472
Volatile acid as acetic (grams per 100 cc)	0.078
Total tartaric acid (grams per 100 cc)	0.396
Free tartaric acid (grams per 100 cc)	0.192
Cream of tartar (grams per 100 cc)	0.211
Tartaric acid to alkaline earths (grams per 100 cc)	0.036
Tannin and coloring matter	0
Polarization at 20° C., direct (°V.)	--28.3
Polarization at 20° C., invert (°V.)	— 27
Polarization at 87° C., invert (°V.)	— 5
Crude ash (grams per 100 cc)	0.175
Alkalinity of water-soluble ash (cc N/10 acid per 100 cc)	11.2
Alkalinity of water-insoluble ash (cc N/10 acid per 100 cc)	4.8
Total ash alkalinity (cc N/10 acid per 100 cc)	16
Sodium oxid (Na_2O) (grams per 100 cc)	0.0031
Potassium oxid (K_2O) (grams per 100 cc)	0.0682
Chlorin (Cl) (grams per 100 cc)	0.0014
Sulphurous acid (SO_2) (grams per 100 cc)	0.0278

These results showed that the product was not pure Catawba grape juice, and that its composition had been altered by adding water and sugar. Adulteration of the product was alleged in the information for the reason that water and sugar had been mixed and packed therewith so as to reduce and lower and injuriously affect its quality and strength, and for the further reason that sugar and water had been substituted wholly or in part for the genuine article, grape juice. Misbranding was alleged for the reason that the statement "Catawba Juice" borne on the label was false and misleading, in that it deceived and misled the purchaser into the belief that the product was the pure juice obtained from pressing of the Catawba grape, when, as a matter of fact, it was not such, but was grape juice to which sugar and water had been added. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled "Catawba Juice," thereby creating the impression that it was pure juice obtained from pressing of the Catawba grape, when, as a matter of fact, it was not such a product but was grape juice containing added water and sugar.

On November 28, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $25 and costs.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2967. Adulteration of oysters. U. S. v. Six Tubs of Oysters. Default decree of condemnation forfeiture, and destruction. (F. & D. No. 4761. S. No. 1567.)

On November 8, 1912, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of six tubs of oysters remaining unsold in the original unbroken packages and in possession of Irwin Bros., Chicago, Ill., alleging that the product had been shipped on November 5, 1912, by the J. I. Housman Oyster Co., New York, N. Y., from the State of New York into the State of Illinois, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the product was alleged in the libel for the reason that it consisted in part of filthy and decomposed animal matter, and for the further reason that it consisted in part of a portion of an animal unfit for food.

On February 6, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2968. Adulteration of oysters. U. S. v. Nine Tubs and Two Tubs of Oysters. Default decrees, of condemnation, forfeiture, and destruction. (F. & D. Nos. 4787, 4788. S. No. 1569.)

On November 11, 1912, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of nine tubs and two tubs of oysters, remaining unsold in the original unbroken packages, the nine tubs in possession of Ernest Hog, doing business as Magner Winslow Co., Chicago, Ill., and the two tubs in possession of W. M. Walker, Chicago, Ill., alleging that the product had been shipped on November 5, 1912, by Vanorden Bros., New York, N. Y., and transported from the State of New York into the State of Illinois, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the product was alleged in the libels for the reason that it consisted in part of filthy, decomposed, and putrid animal matter, and for the further reason that it consisted in part of a portion of an animal unfit for food.

On February 6, 1913, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2969. Adulteration of salmon. U. S. v. One Thousand Cases of Canned Salmon. Decree of condemnation by consent. Product ordered destroyed. (F. & D. No. 4789. S. No. 1572.)

On November 11, 1912, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 1,000 cases of canned salmon, remaining unsold in the original unbroken packages, at Boston, Mass., alleging that the product had been shipped by the Fidalgo Island Packing Co., Seattle, Wash., and transported from the State of Washington into the State of Massachusetts, and charging adulteration in violation of the Food and Drugs Act. The product was labeled (on cases) "4 Doz. Alaska Salmon Red Star Brand Packed by the Fidalgo Island P. K. G. Co. at Ketchican, Alaska." (On cans) "Fresh (Design salmon) Pink Salmon Packed by the Fidalgo Island Packing Co., Ketchican, Alaska. Empty contents soon as opened. Red Star Brand (Design Salmon) Pink Trade Mark Salmon."

Adulteration of the product was alleged in the libel for the reason that it consisted in part of a filthy, decomposed, and putrid animal substance.

On December 16, 1912, the said Fidalgo Island Packing Co. petitioned the court, seeking to intervene in the cause, which petition was duly allowed by the court, and an order was entered permitting the Government and said intervener to overhaul and sort the different cans of salmon for the purpose of separating the good cans from the bad, and as a result of the overhauling the intervener stated that 937 cases had been examined and sorted, with the result that 364 cases and 36 cans were found "bright," 510 cases and 41 cans "rusty," and 63 cases and 8 cans "swells;" and said intervener also stated that the tins containing the salmon had before shipment been submerged in salt water by accident, but had been sold in good faith in the belief that they had not thereby been rendered unfit for food, and said intervener being desirous that under the conditions found to exist the goods bearing its brand should not be offered for sale, consented that a decree of forfeiture be entered. The preceding facts were made the basis of an agreement between counsel for the Government and the intervener, whereby a decree might be entered.

On June 6, 1913, a judgment of condemnation and forfeiture was entered, and in accordance with the agreement of counsel and in consideration of the facts set forth in said agreement, it was ordered by the court that 984 cases of the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2970. Adulteration of gelatine. U. S. v. 2 Cases of Gelatine. Decree of condemnation by consent. Product ordered destroyed. (F. & D. No. 4790. S. No. 1573.)

On November 11, 1912, the United States Attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 2 cases of Keystone Silver White Gelatine, remaining unsold in the original, unbroken packages and in the possession of J. H. Allen & Co., St. Paul, Minn., alleging that the product had been shipped on November 6, 1911, by the American Agricultural Chemcal Co., Detroit, Mich., and transported in interstate commerce from the State of Michigan into the State of Minnesota, and charging adulteration in violation of the Food and Drugs Act. The product was labeled (on cases): "Keystone Silver White Gelatine—The American Agricultural Chemical Co., Michigan Carbon Works, Detroit, Mich.—Guaranteed by the American Agricultural Chemical Co., under the Food & Drugs Act of June 30, 1906, Serial Number 8300." (On cartons) "One dozen Boxes Keystone Silver White Gelatine—Guaranteed under the Food & Drugs Act, June 30, 1906. No. 8300. Manufactured by American Agricultural Chemical Co., Michigan Carbon Works, Gelatine Department, Detroit, Mich. U.S.A."

Adulteration of the product was alleged in the libel, for the reason that it contained an added poisonous or deleterious ingredient which might render it injurious to health; that is to say, it contained over 15 parts per million of arsenic trioxid.

On June 14, 1913, the said American Agricultural Chemical Co., claimant, having consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2971. Misbranding of wine. U. S. v. 25 Cases of Wine. Decree of condemnation by default. Product ordered destroyed. (F. & D. No. 4791. S. No. 1575.)

On November 13, 1912, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 25 cases, each containing 12 bottles of wine, remaining unsold in the original unbroken packages

and in possession of the W. H. Dirden Liquor Co., East St. Louis, Ill., alleging that the product had been shipped on or about October 4, 1912, and transported in interstate commerce from the State of Ohio into the State of Illinois, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Special Scuppernong Bouquet Delaware and Scuppernong Blend Ameliorated with Sugar. 12 bottles W. H. Dirden Liq. Co., East St. Louis, Ill.," on cases, and "Guaranteed by the Sweet Valley Wine Co., under the Food and Drugs Act, June 30, 1906. Special S. V. W. Co. Trade Mark," on the neck of each bottle, and "Special Wine Belle of the Valley Scuppernong Bouquet Delaware and Scuppernong Blend Ameliorated with Sugar Solution. Trade Mark S. V. W. Co.," as the main label on each bottle.

Misbranding of the product was alleged in the libel for the reason that it consisted wholly or in large part of a mixture of pomace and other wines, and contained practically no Scuppernong wine, and the labels on the cases and bottles, to wit, "Special Scuppernong Bouquet" and "Special Wine * * Scuppernong Bouquet," would deceive and mislead the purchaser thereof into the belief that said wine was a Scuppernong wine, whereas, in truth and in fact, it was a mixture of pomace and other wines, and for the further reason that the word "Scuppernong," so upon said labels as aforesaid, was printed in much larger type than that used for other words of said labels.

On May 23, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, the court finding that the product had been shipped by the Sweet Valley Wine Co., Sandusky, Ohio, and it was ordered that said product should be destroyed by the United States marshal.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2972. Adulteration and misbranding of cough candy. U. S. v. Lewis Bros. Plea of non vult. Sentence suspended. (F. & D. Nos. 4797, 4812. I. S. Nos. 15369-d, 21713-d.)

On April 30, 1913, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Bernard Lewis & Gustav Lewis, trading as Lewis Bros., Newark, N. J., alleging shipment by said defendants, in violation of the Food and Drugs Act:

(1) On September 27, October 26, October 31, and November 10, 1911, from the State of New Jersey into the State of Pennsylvania, of a quantity of cough candy which was adulterated and misbranded. The product was labeled: (On case, stenciled on top) "Wild Cherry Open this Side." (Both ends) "Dr. Steven's Cough Drops man'f'd by Lewis Bros." (On side) "Grip and Cough Candy Serial No. 2623." (Other side) "Preventative of Grip and Coughs." Signs inside of case read: "Dr. Steven's Wild Cherry Cough Drops. Manufactured by Lewis Bros., Newark, N. J." (Small bag) "Dr. Steven's Wild Cherry Cough Drops. Manufactured by Lewis Brothers, Newark, N. J."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Product is candy containing tartaric acid, flavored with benzaldehyde and artificially colored. No wild cherry present.

Adulteration of the product was alleged in the information for the reason that it contained no wild cherry, but was colored in a manner whereby its inferiority as a product containing no wild cherry was concealed. Misbranding was alleged for the reason that the statement "Wild Cherry" borne on the label was false and misleading because it conveyed the impression that the product contained wild cherry, whereas, in truth and in fact, it did not contain wild cherry, and also that it was labeled and branded so as to deceive and mislead the purchaser, being labeled "Wild Cherry," thereby purporting that it contained wild cherry, whereas, in truth and in fact, it did not contain wild cherry.

(2) On January 17, 1912, from the State of New Jersey into the State of Massachusetts, of a quantity of wild cherry candy which was adulterated and misbranded. This product was labeled: "Wild Cherries Essex-Brand-Jersey Made Confectionery A Guarantee of purity. Wholesome and delightful. Gives an appetite for more. Made by Lewis Brothers, Newark, N. J. Guaranty legend, Serial No. 2623."

Analysis of a sample of this product by said Bureau of Chemistry showed the following results:

Colored with cochineal. No coal-tar color.

Benzaldehyde (per cent)	0.0061
Sulphurous acid (mg per kilo)	32
Alcohol precipitate (per cent)	15.62

No fruit flavors present. No persistent fruity flavors in residue from distillation. Flavors wholly volatile and artificial.

Adulteration of the product was alleged in the information for the reason that it was artificially flavored with benzaldehyde which had been substituted in part for the product flavored with genuine wild cherry flavor which the article purported to be. Misbranding was alleged for the reason that the statement "Wild Cherries" borne on the label was false and misleading because it tended to mislead and deceive the purchaser into the belief that the product contained genuine wild cherry flavor, when, as a matter of fact, it did not contain genuine wild cherry flavor, but was artificially flavored with benzaldehyde, and, further, that it was labeled and branded so as to deceive and mislead the purchaser, being labeled "Wild Cherries," thereby creating the impression that it contained genuine wild cherry flavor, when, in truth and in fact, it did not contain wild cherry, but was artificially flavored with benzaldehyde.

On October 22, 1913, defendants entered a plea of non vult to the information, and on October 27, 1913, the court suspended sentence.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2973. Adulteration and misbranding of vinegar. U. S. v. 40 Barrels of Vinegar. Decree of condemnation by default. Goods ordered sold. (F. & D. No. 4801. S. No. 1580.)

On November 14, 1912, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, and on January 21, 1913, an amended libel, for the seizure and condemnation of 40 barrels of so-called pure apple cider vinegar, remaining unsold in the original unbroken packages, and in possession of W. A. Chambers & Co., Clarksville, Tenn., alleging that the product had been shipped on or about October 3, 1912, by R. M. Hughes & Co., Louisville, Ky., and transported from the State of Kentucky into the State of Tennessee, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "R. M. Hughes & Co. Pure Apple Cider Vinegar. Serial No. 26475. Louisville, Ky. Water only used in bringing to uniform strength." There were also penciled figures on one end of the barrels indicating the net contents thereof.

Adulteration of the product was alleged in the libel for the reason that it consisted in whole or in part of a mixture of distilled vinegar or dilute acetic acid which had been prepared in imitation of cider vinegar and had been mixed and packed with the product so as to reduce and lower and injuriously affect its quality and strength. Misbranding was alleged for the reason that the numerals placed or branded on the barrels to indicate the true contents or net contents therein in gallons or measure were false and misleading, each of the barrels containing a smaller number of gallons than the numerals thereon indicated, and the contents of the barrels as to quantity or gallons were not correctly stated by the brands on the same nor by the invoice in any instance, but the quantity of vinegar therein was less by several gallons than indicated by the invoice and by the numerals branded on the barrels, as aforesaid.

On April 9, 1913, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be sold by the United States marshal after relabeling.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *March 30, 1914.*

2974. Adulteration and misbranding of vino vermouth. U. S. v. Italian Importing Co. Plea of guilty. Fine, $100. (F. & D. No. 4805. I. S. No. 19531-d.)

On June 23, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Italian Importing Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on June 21, 1911, from the State of New York into the State of Illinois, of a quantity of so-called vino vermouth which was adulterated and misbranded. The product was labeled: "De Martini Vino Vermouth. The Italian Importing Co. of New York. A Compound Guaranteed under the Food and Drugs Act, June 30, 1906. Serial No. 19441. The Italian Importing Co. of New York. New York. Extra." Analysis of a sample of the product by the Bureau of Chemistry of this department showed that alcohol and water had been substituted in whole or in part for wine.

Adulteration of the product was alleged in the information for the reason that there had been substituted in part for the genuine article, vino vermouth, other substances, to wit, alcohol and water. Misbranding of the product was alleged for the reason that it was misbranded and labeled, as aforesaid, so as to mislead and deceive the purchaser thereof, in that the statements, designs, and devices on the label thereof, regarding said article and the ingredients and substances contained therein, were false and misleading, in that said label would indicate that the article was a genuine Italian vermouth, whereas, in truth and in fact, it was an imitation vermouth in which a large amount of alcohol and water had been substituted for wine. Misbranding was alleged for the further reason that the statement "Vino Vermouth" on the label thereof, regarding said article and the ingredients and substances contained therein, was false and misleading in that said words would indicate that the article was a genuine wine of vermouth, whereas, in truth and in fact, it was not wine of vermouth but was an imitation thereof, and was a product consisting largely of water, alcohol, flavoring matter, and a small amount of wine.

On November 14, 1913, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $100.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *March 30, 1914.*

2975. Adulteration of tomato pulp. U. S. v. William Numsen & Sons. Plea of guilty. Fine, $10. (F. & D. No. 4806. I. S. No. 15289-d.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against William Numsen & Sons, a corporation, Baltimore, Md., alleging shipment by said company, in violation of the Food and Drugs Act, on November 13, 1911, from the State of Maryland into the State of Texas, of a quantity of tomato pulp which was adulterated. The product was labeled: "Tomato Pulp for Soup, Packed by Wm. Numsen & Sons. Incorporated. Main Office Baltimore, Md. U. S. A. Made from pieces and trimmings of tomatoes. * * * Clipper Brand. Contains 10 oz. or over."

Examination of a sample of the product by the Bureau of Chemistry of this department, showed the following results:

Yeasts and spores, 49 per one-sixtieth cubic millimeter. Bacteria, 28,000,000 per cc. Mold filaments in 80 per cent of the microscopic fields. Decayed pieces of tissue of macroscopic size present.

Adulteration of the product was alleged in the information for the reason that it consisted of a certain decomposed vegetable substance, to wit, decomposed pieces and trimmings of tomatoes.

On October 9, 1913, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $10.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2976. Adulteration and misbranding of spirits of niter. U. S. v. Charles J. Heineman and Albert T. Evans (Baltimore Drug Co.). Plea of guilty. Fine, $25. (F. & D. No. 4807. I. S. No. 36222-e.)

On July 16, 1913, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Charles J. Heineman and Albert T. Evans, copartners, trading under the name and style of the Baltimore Drug Co., Baltimore, Md., alleging shipment by said defendants, in violation of the Food and Drugs Act, on July 16, 1912, from the State of Maryland into the State of Virginia, of a quantity of spirits of niter which was adulterated and misbranded. The product was labeled: "Golden Horse Shoe Brand * * Trade Mark * * Spirit Nitre Alcohol 92 per cent Ethyl Nitrite 18 min. Manufactured for The Four Co. Norfolk, Va. Guaranteed Serial No. 505A * *."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that the ethyl nitrite content was 1.9 per cent, or approximately 8.6 minims per fluid ounce. Adulteration of the product was alleged in the information for the reason that its strength fell below the professed standard under which it was sold, in that each of the cartons containing the bottles of said product bore the statement, in substance and effect, that the spirits of niter contained 18 minims of ethyl nitrite per fluid ounce, whereas, in truth and in fact, said product contained but 9.1 minims of ethyl nitrite per fluid ounce. Misbranding was alleged for the reason that each of the cartons containing the product bore a statement regarding the ingredients and substances contained therein, to the effect that the product contained 18 minims of ethyl nitrite per fluid ounce, which said statement was false and misleading, in that the product did not contain 18 minims of ethyl nitrite per fluid ounce, but, in truth and in fact, contained 9.1 minims of ethyl nitrite per fluid ounce. While it was alleged in the information that the product contained 9.1 minims of ethyl nitrite per fluid ounce, the analysis showed that it contained but 8.6 minims of ethyl nitrite per fluid ounce.

On October 9, 1913, the defendants entered pleas of guilty to the information, and the court imposed a fine of $25.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2977. Misbranding of wine. U. S. v. 8 Barrels and 2 Kegs of So-called Port Wine. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 4816. S. No. 1584.)

On November 18, 1912, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 8 barrels and 2 kegs of so-called port wine, remaining unsold in the original unbroken packages and in possession of the Globe Tobacco Co., Detroit, Mich., alleging that the product had been shipped on November 7, 1912, by Schaedler & Rhein, Kelleys Island, Ohio, and transported from the State of Ohio into the State of Michigan, and charging misbranding in violation of the Food and Drugs Act. The barrels containing the product were labeled: (on one end) "G. T. Co. Detroit, Michigan," (on other end) "Schaedler and Rhein Port Wine, 52 Kelleys Island, Ohio."

It was alleged in the libel that the product was misbranded in violation of section 8 of the Food and Drugs Act and the first paragraph of said section; and also misbranded in violation of paragraphs 2 and 4 of said section 8 in the case of food in said act; and investigation and inspection of the factory of said firm at Kelleys Island by inspectors of the Department of Agriculture revealed the fact that all port wines marketed by them were manufactured in their establishment and that in the preparation and manufacture of said product prunes were used, the product thus being of domestic origin, and the shipment being labeled "Port" without any qualifying terms showing that said product was manufactured in Ohio; said product was thus labeled and branded so as to deceive and mislead the purchaser and to purport to be a foreign product when it was not so, and was further misbranded in that the statement contained on the label thereof was false and misleading regarding the ingredients and substances contained therein.

On February 1, 1913, the said Schaedler & Rhein, claimants, having consented thereto, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be surrendered to said claimants upon payment of the costs of the proceedings and the execution of bond in the sum of $500 in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2978. Misbranding of tomatoes. U. S. v. 1,200 Cases of Tomatoes. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 4822. S. No. 1582.)

On November 19, 1912, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 1,200 cases, each containing 2 dozen cans of tomatoes, remaining unsold in the original unbroken packages and in possession of G. E. Howard & Co., Newburg, New York, alleging that the product had been shipped on or about August 26, 1912, by the New Hartford Canning Co. (Ltd.), from Centerville, Md., and transported from the State of Maryland into the State of New York, and charging misbranding in violation of the Food and Drugs Act. The cases were labeled: "2 doz. Mohawk Valley Tomatoes packed by New Hartford Canning Company, New Hartford, N. Y." The cans were labeled: "Mohawk Valley brand tomatoes New Hartford Canning Company, Ltd., contents two pounds. New Hartford Canning Company, New Hartford, Oneida County, New York. Guaranteed by New Hartford Canning Company, serial Number 9809."

Misbranding of the product was alleged in the libel for the reason that it was falsely branded as to the State in which it was produced; that is to say, it bore a label which represented that it was produced and manufactured in the State of New York, whereas in truth and in fact it was produced and manufactured in the State of Maryland. Misbranding was alleged for the further reason that the packages containing the product bore a statement which was false and misleading in that it represented the article to be tomatoes grown and packed in the State of New York, whereas in truth and in fact said article was tomatoes grown and packed in the State of Maryland.

On December 5, 1912, the said New Hartford Canning Co., claimant, a corporation organized and existing under the laws of the State of New York, having made its claim and stipulation for the costs and consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered that the product should be redelivered to said claimant upon payment of the costs of the proceedings and the execution of bond in the sum of $2,400, in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2979. Adulteration and misbranding of headache powders. U. S. v. Benjamin L. Lambert (Lambert & Lowman). Plea of guilty. Fine, $50. (F. & D. No. 4825. I. S. No. 23975-d.)

On February 1, 1913, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Benjamin L. Lambert, successor of Benjamin L. Lambert and Oscar Lowman, copartners, under the firm name and style of Lambert & Lowman, doing business under said name at Detroit, Mich., alleging shipment by said defendant, in violation of the Food and Drugs Act, on March 30, 1912, from the State of Michigan into the State of New York, of a quantity of headache powders which were adulterated and misbranded. The product was labeled: "Headache Powders. Each powder contains 4 grains Acetanilid. A sure relief for Headache of all origins, whether Sick, Bilious, Nervous, or Hysterical. These powders contain no Morphine, Quinine, Bromides or Narcotics. They are not a Cathartic. Directions: Place a Powder on the tongue and swallow with a draught of water; repeat the dose in half hour if necessary. Dose for children under 18 years, half powder in water. Prepared for Rudin's Modern Drug Stores, 98 Clinton, cor. Oak; 163 Broadway, cor. Michigan, Buffalo, N. Y. Serial No. 1998."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Acetanilid (grains per powder)	3.232
Caffein (grains per powder)	0.417

Adulteration of the product was alleged in the information for the reason that it was found by analysis to contain a strength below the professed standard under which it was sold, to wit, 4 grains of acetanilid, said product being deficient in acetanilid. Misbranding was alleged for the reason that the product had printed thereon, on each of the envelopes containing the individual powder, the language comprising the aforesaid label, in that the statement, to wit, "Each powder contains 4 grains Acetanilid," borne on the aforesaid label, was false and misleading, an analysis of the product demonstrating that the powders did not contain 4 grains of acetanilid, but, on the contrary, contained on the average only, to wit, 3.232 grains of acetanilid, said statements relating to the ingredients and substances contained in said headache powders. Misbranding was alleged for the further reason that the label and package containing the powders failed to bear a statement of the quantity or proportion of acetanilid contained therein in type sufficiently large to comply with the rules and regulations for the enforcement of the Food and Drugs Act, to wit, regulation 17, paragraph c thereof, and said statement of said substances not being declared in type sufficiently large to attract the attention of the purchaser thereof, so as to plainly inform said purchaser of the presence of the aforesaid substances therein.

On February 3, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $50.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2980. Adulteration and misbranding of cocoa. U. S. v. J. G. McDonald Chocolate Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 4830. I. S. No. 2781-d.)

On February 3, 1913, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the J. G. McDonald Chocolate Co., a corporation, Salt Lake, Utah, alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 16, 1911, from the State of Utah into the State of Wyoming, of a quantity of cocoa, in cans, which was adulterated and misbranded. The product was labeled: "McDonald Salt Lake Cocoa J. G. McDonald

Company, Salt Lake Utah, U. S. A. The Best Cocoa in The World. Celebrated for its Strength, Nutritive Qualities, Perfect Digestibility, Delicate Flavor, Absolute Purity, and being Soluble. Better and Cheaper than Tea or Coffee. The most renowned Physicians in the world recommend Cocoa for both Sick and Well. McDonald's Cocoa is a Pure Food, capable of being perfectly assimilated, giving Strength to the Strong and Nourishment to the Weak. McDonald's Cocoa Quality is equal to the quality of his famous Chocolates."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Moisture (per cent)	2.60
Cocoa fat (per cent)	31.76
Sucrose and lactose: None detected.	
Ash (per cent)	8.00
Water-soluble ash (per cent)	6.58
Water-insoluble ash (per cent)	1.42
Hydrochloric acid insoluble ash (per cent)	0.06
Alkalinity of soluble ash (cc N/10 acid per gram)	6.05
Alkalinity of insoluble ash (cc N/10 acid per gram)	4.25
Nitrogen (per cent)	2.60
Crude fiber (per cent)	4.41
Microscopic examination: Nothing abnormal noted.	
Total ash (calculated on basis of water and fat-free substance) (per cent)	12.18
Alkalinity of ash (calculated on above basis) (cc N/10 acid per gram sample, equivalent to 7.38 per cent K_2O)	15.70
Soluble ash in total ash (per cent)	82.20
Insoluble ash in total ash (per cent)	17.80

Adulteration and misbranding of the product were alleged in the information for the reason that in each of the cans a substance other than cocoa, to wit, a mineral substance, had been substituted in part for cocoa, and said label hereinbefore set forth was false and misleading in that it conveyed, and was intended by the defendant to convey, the impression that the contents of the cans was pure cocoa, whereas, in truth and in fact, a substance other than cocoa, to wit, a mineral substance, had been substituted in part for cocoa.

On February 10, 1913, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $10 with costs of $12.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2981. Misbranding of cheese. U. S. v. 163 Boxes of Cheese. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 4832. S. No. 1589.)

On November 22, 1912, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 68 boxes of cheese of about 23 pounds each, and 95 boxes of paraffined cheese of about 22 pounds each, remaining unsold in the original unbroken packages and in possession of the Winter-Loeb Grocery Co., Montgomery, Ala., alleging that the 68 boxes had been shipped on October 28, 1912, and the 95 boxes on November 6, 1912, by Crosby & Meyers, Chicago, Ill., from Nashville, Tenn., and transported from the State of Tennessee into the State of Alabama, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: "Striped Cheese is surely full cream—others may be. Oak Leaf Brand Cheese Winter-Loeb Grocery Co. Montgomery, Ala. Crosby & Meyers, Chicago, Shippers." (In pencil figures) "23." Each of the 68 boxes bore the pencil figure "23" and each of the 95 boxes bore the pencil figure "22," said numbers indicating the contents in pounds in each box of cheese.

Misbranding of the product was alleged in the libel for the reason that the weights of the cheeses were not plainly and correctly stated on the outside of the boxes, in that said cheeses were short in weight in the entire lot as to the 68 boxes of cheese in the amount of 87 pounds, and as to the 95 boxes of cheese in the amount of 106¼ pounds, particularly described in this, that the average shortage on each of the 68 boxes was 5.7 per cent, and on each of the 95 boxes was 5 per cent, of the marked weight; that is to say, that the marked weight of said 68 boxes was 1,515 pounds and of the 95 boxes was 2,106 pounds, and the actual weight of the 68 boxes was 1,428 pounds and of the 95 boxes was 1,999.75 pounds.

On December 4, 1912, the said Winter-Loeb Grocery Co., claimant, having admitted the allegations in the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be delivered to said claimant upon payment of the costs of the proceedings and the execution of bond, in conformity with section 10 of the act.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2982. Adulteration of gum orange shellac. U. S. v. Charles B. Lyon and Heber W. Lyon. Pleas of guilty. Fine, $10. (F. & D. No. 4835. I. S. No. 14134-c.)

On June 4, 1913, the United States attorney for the District of Minnesota, acting upon report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against Charles B. Lyon and Heber W. Lyon, doing business under the firm name and style of C. B. Lyon & Bro., St. Paul, Minn., alleging shipment by said defendants, in violation of the Food and Drugs Act, on November 12, 1910, from the State of Minnesota into the State of Washington, of a quantity of gum orange shellac which was adulterated. The product was invoiced as "Gum Orange Shellac."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed arsenic (as As_2O_3), 0.19 per cent. Adulteration of the product was alleged in the information for the reason that it contained an added poisonous ingredient, to wit, arsenic, which might render said product injurious to health.

On June 4, 1913, defendants entered pleas of guilty and the court imposed fines of $5 upon each of them.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2983. Adulteration and misbranding of vino vermouth. U. S. v. Pasquale Gargiulo (P. Gargiulo & Co.). Plea of guilty. Fine, $75. (F. & D. No. 4840. I. S. No. 3181-d.)

On June 11, 1913, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court of the United States for said district an information against Pasquale Gargiulo, doing business under the name and style of P. Gargiulo & Co., New York, N. Y., alleging shipment by said defendant, in violation of the Food and Drugs Act, on February 28, 1912, from the State of New York into the State of Massachusetts, of a quantity of vino vermouth, which was adulterated and misbranded. The product was labeled partly in Italian and partly in English, and translation of the Italian portions of the label, with the portions in English, was as follows: "Vino Vermouth, Martini Sons, Prepared for Export, First Quality, P. Gargiulo & Co., Sole Agents, U. S., Canada, Mexico, Serial No. 10407." The label also bore a picture of the Italian flag.

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Specific gravity 15.6° C	1.0429
Alcohol (per cent)	20.53
Glycerin (grams per 100 cc)	0.070

Extract (calculated) (grams per 100 cc)	17.46
Total acid as tartaric (grams per 100 cc)	0.306
Sucrose (per cent)	0.65
Polarization (°V.):	
Direct, 20° C.	−26.58
Invert, 20° C.	−29.90
Invert, 87° C.	− 5.90
Ash (grams per 100 cc)	0.17
Soluble ash (grams per 100 cc)	0.051
Insoluble ash (grams per 100 cc)	0.12
Alkalinity of soluble ash (cc N/10 HCl per 100 cc)	7.28
Alkalinity of insoluble ash (cc N/10 HCl per 100 cc)	8.10
Potassium sulphate (grams per 100 cc)	0.045
Color: No coal-tar dye.	
Oil of wormwood: None found.	
Total tartaric acid (grams per 100 cc)	0.081

The sample is represented to be a wine vermouth, when, as a matter of fact, it contains practically no wine, but a dilute solution of alcohol has been substituted in part therefor.

Adulteration of the product was alleged in the information for the reason that there was substituted in part for the genuine article, vino vermouth, another article, to wit, dilute alcohol. Misbranding was alleged for the reason that the label of the product bore statements, designs, and devices regarding the article and the ingredients and substances contained therein which were false and misleading in that they would indicate that the article was a foreign product, to wit, a product of Italy, when it was not so, but was a product of the United States, and in that it purported to be a foreign product, to wit, a product of Italy, when it was not so, but was a product of the United States. Misbranding was alleged for the further reason that the product was branded and labeled, as aforesaid, so as to deceive and mislead the purchaser thereof, in that said label would indicate that the article was a true vino vermouth, whereas, in truth and in fact, it was not a vino vermouth, but was a product containing practically no wine but a dilute solution of alcohol substituted therefor.

On November 5, 1913, the defendant entered a plea of guilty to the information and the court imposed a fine of $75.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2984. Adulteration and misbranding of tomato paste. Adulteration and misbranding of peeled tomatoes. U. S. v. 50 Cases Peeled Tomatoes No. 3 Cans; U. S. v. 50 Cases Peeled Tomatoes No. 2 Cans; U. S. v. 50 Cases Tomato Paste. Consent decree of condemnation, forfeiture, and destruction as to the tomato paste. Order of court releasing the peeled tomatoes on bond. (F. & D. No. 4847. S. No. 1596.)

On November 29, 1912, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 50 cases of tomato paste, 50 cases No. 2 cans peeled tomatoes, and 50 cases No. 3 cans peeled tomatoes, remaining unsold in the original unbroken packages and in possession of Sutherland & McMilland, Pittston, Pa., alleging that the product had been shipped on or about November 7, 1912, and transported from the State of New Jersey into the State of Pennsylvania, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The tomato paste was labeled: "Salsi Di Pomidori—This product contains absolutely no preservatives of any kind. Tomato sauce. Cipolla Brand. Packed in Sanitary

Cans, no acid or solder used. Trade Mark P. V. Co. The Italian Importing Co. New York Sole Distributors." In addition, the labels on the cans bore pictorial representations of foreign scenes, together with lithographic representation of a variety of tomatoes grown in Italy. Cans were also impressed upon top with the word "Vesuvian." Adulteration of this product was alleged in the libel for the reason that it was labeled as aforesaid, thereby indicating, declaring, and publishing, and intending thereby to indicate, publish, and declare, that the contents of each can was tomato paste containing no preservatives of any kind, packed in sanitary cans, no acid or solder used, and that it was wholesome unadulterated food, whereas, in truth and in fact, the contents consisted wholly or in part of filthy, putrid, and decomposed vegetable substance. It was also alleged in the libel that the labels upon the packages or cans leading the public to believe that the contents were of foreign origin were misleading and false for the reason that they were not of foreign origin but were, in fact, packed in the State of New Jersey and thereby intended to mislead and deceive the purchaser and was a misbran ing within the meaning of the Pure Food and Drugs Act of the United States.

The No. 2 and No. 3 cans of peeled tomatoes were labeled: "Pomidori Pelati—This product contains absolutely no preservatives of any kind. Peeled-tomatoes—Cipolla Brand. Packed in Sanitary cans. No acid or solder used. Trade Mark P. V. Co.—The Italian Importing Co. New York Sole Distributors." In addition, the labels bore pictorial representations of foreign scenes, together with lithographic representation of a variety of tomatoes grown in Italy. Cans were also impressed upon the top with the word "Vesuvian," thereby indicating, declaring, and publishing, and intending thereby to indicate, publish, and declare, that the contents of each can were peeled tomatoes containing no preservative of any kind, packed in sanitary cans, no acid or solder used, and that it was wholesome unadulterated food, whereas, in truth and in fact, the contents consisted wholly or in part of filthy, putrid, and decomposed vegetable substance. It was also alleged that the labels upon the packages or cans leading the public to believe that the contents were of foreign origin were false and misleading, for the reason that they were not of foreign origin, but were in fact packed in the State of New Jersey and thereby intended to mislead and deceive the purchaser and was a misbranding within the meaning of the Pure Food and Drugs Act of the United States.

On March 10, 1913, the Vesuvian Preserving Co., Vineland, N. J., filed its answer, claiming the goods. On September 6, 1913, said claimant filed its petition for leave to change the labels on the peeled tomatoes and to have the product released to it upon bond, setting up in said petition that the peeled tomatoes so packed and canned by it were fresh, sweet, and wholesome goods, but that the label on the cans did not contain a statement of the place where goods were packed. On the same day said claimant filed a petition setting up that it had been agreed between the counsel for the parties to the case that if the tomato paste was unwholesome and unfit for human consumption it had become spoiled since packing and might be destroyed by the proper Federal officials. Thereupon, upon consideration of the foregoing petitions and agreement of counsel, it was ordered by the court that, upon filing of bond by said claimant in the sum of $100, conditioned that said claimant would change the labels on the cans of peeled tomatoes by adding thereto "Packed in Vineland, N. J., U. S. A.," and would not dispose of or sell the same without so doing, said cans of peeled tomatoes be released and returned to said claimant, who should pay the costs of suit. It was also ordered and decreed by the court that the 50 cases of tomato paste should be destroyed by the proper Federal authorities in accordance with the foregoing petition.

B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

2985. Adulteration and misbranding of vinegar. U. S. v. 75 Barrels of So-Called Vinegar. Default decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 4854. S. No. 1601.)

On December 2, 1912, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 75 barrels of so-called sugar vinegar, remaining unsold in e original unbroken packages, and in possession of the James McCoy Co., a corporation, Peoria, Ill., alleging that the product had been shipped on or about June 6, 1912, by the A. Braun Mfg. Co., and transported from the State of Missouri into the State of Illinois, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: "Manufactured for James McCoy and Co. Peoria, Ills. sugar vinegar made in St. Louis, Mo."

Adulteration of the product was alleged in the libel for the reason that it consisted wholly or in part of distilled vinegar or dilute acetic acid, which had been artificially colored and substituted and packed in the barrels in imitation of sugar vinegar, so that distilled vinegar and dilute acetic acid and artificial coloring matter had been substituted wholly or in part for sugar vinegar, so that the article was mixed and colored in a manner whereby its inferiority was concealed. Misbranding was alleged for the reason that the barrels containing the article were each branded and labeled as aforesaid, which said brand and label on each of said barrels bore a statement, design, and device regarding said article, and the ingredients and substances contained therein, which was false and misleading, in that said label and brand purported to declare, and in substance and fact did declare, that each of the barrels contained an article of food known as sugar vinegar, when, in truth and in fact, the article consisted in whole or in part of distilled vinegar and acetic acid artificially colored in imitation of sugar vinegar, and, further, that the article was in imitation of and was offered for sale under the distinctive name of sugar vinegar, when, in truth and in fact, it was not a sugar vinegar but was an imitation thereof.

On November 3, 1913, the said James McCoy Co., having, with leave of court, withdrawn its appearance and answer formerly made, and the said Braun Mfg. Co. having been permitted to enter its appearance as claimant, and having been ordered by the court to plead instanter and having failed to plead, a decree of condemnation and forfeiture was entered as in case of default, and it was ordered by the court that the product should be turned over to said claimant upon payment of the costs of the proceedings and the execution of bond in the sum of $250, in conformity with section 10 of the act. B. T. Galloway, *Acting Secretary of Agriculture.*

Washington, D. C., *March 30, 1914.*

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S. R. A.—Chem. 4. Issued May 22, 1914.

U. S. DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY.
C. L. ALSBERG, Chief of Bureau.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

APRIL, 1914.

FOOD INSPECTION DECISION No. 153.

Amendment to regulation 9, relating to guaranties by wholesalers, jobbers, manufacturers, and other parties residing in the United States to protect dealers from prosecution.

Regulation 9 of the Rules and Regulations for the Enforcement of the Food and Drugs Act, June 30, 1906 (34 Stat., 768) is hereby amended, effective May 1, 1915, so as to read as follows:

REGULATION 9. GUARANTY.

(Section 9.)

(*a*) It having been determined that the legends "Guaranteed under the Food and Drugs Act, June 30, 1906," and "Guaranteed by (name of guarantor), under the Food and Drugs Act, June 30, 1906," borne on the labels or packages of food and drugs, accompanied by serial numbers given by the Secretary of Agriculture, are each misleading and deceptive, in that the public is induced by such legends and serial numbers to believe that the articles to which they relate have been examined and approved by the Government and that the Government guarantees that they comply with the law, the use of either legend, or any similar legend, on labels or packages should be discontinued. Inasmuch as the acceptance by the Secretary of Agriculture for filing of the guaranties of manufacturers and dealers and the giving by him of serial numbers thereto contribute to the deceptive character of legends on labels and packages, no guaranty in any form shall hereafter be filed with and no serial number shall hereafter be given to any guaranty by the Secretary of Agriculture. All guaranties now on file with the Secretary of Agriculture shall be stricken from the files, and the serial numbers assigned to such guaranties shall be canceled.

(*b*) The use on the label or package of any food or drug of any serial number required to be canceled by paragraph (*a*) of this regulation is prohibited.

(*c*) Any wholesaler, manufacturer, jobber, or other party residing in the United States may furnish to any dealer to whom he sells any article of food or drug a guaranty that such article is not adulterated or misbranded within the meaning of the Food and Drugs Act, June 30, 1906, as amended.

(*d*) Each guaranty to afford protection shall be signed by, and shall contain the name and address of, the wholesaler, manufacturer, jobber, dealer, or other party

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication will be issued monthly by the Bureau of Chemistry. It covers the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution will be limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

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residing in the United States making the sale of the article or articles covered by it to the dealer, and shall be to the effect that such article or articles are not adulterated or misbranded within the meaning of the Federal Food and Drugs Act.

(*e*) Each guaranty in respect to any article or articles should be incorporated in or attached to the bill of sale, invoice, bill of lading, or other schedule, giving the names and quantities of the article or articles sold, and should not appear on the labels or packages.

(*f*) No dealer in food or drug products will be liable to prosecution if he can establish that the articles were sold under a guaranty given in compliance with this regulation.

W. G. McAdoo, *Secretary of the Treasury.*
D. F. Houston, *Secretary of Agriculture.*
William C. Redfield, *Secretary of Commerce.*

Washington, D. C., *May 5, 1914.*

FOOD INSPECTION DECISION No. 154.

Regulation of marking the quantity of food in package form.

Under section 3 of the Food and Drugs Act of June 30, 1906 (34 United States Statutes at Large, pages 768 to 772), as amended by the act of March 3, 1913, entitled "An act to amend section eight of an act entitled 'An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes,' approved June thirtieth, nineteen hundred and six" (37 United States Statutes at Large, page 732), regulation 29 of the Rules and Regulations for the Enforcement of the Food and Drugs Act is hereby amended so as to read as follows:

STATEMENT OF WEIGHT, MEASURE, OR COUNT.

(Section 8, paragraph third, under "Food," as amended by act of March 3, 1913.)

(*a*) Except as otherwise provided by this regulation, the quantity of the contents, in all cases of food, if in package form, must be plainly and conspicuously marked, in terms of weight, measure, or numerical count, on the outside of the covering or container usually delivered to consumers.

(*b*) The quantity of the contents so marked shall be the amount of food in the package.

(*c*) The statement of the quantity of the contents shall be plain and conspicuous, shall not be a part of or obscured by any legend or design, and shall be so placed and in such characters as to be readily seen and clearly legible when the size of the package and the circumstances under which it is ordinarily examined by purchasers or consumers are taken into consideration.

(*d*) If the quantity of the contents be stated by weight or measure, it shall be marked in terms of the largest unit contained in the package; for example, if the package contain a pound, or pounds, and a fraction of a pound, the contents shall be expressed in terms of pounds and fractions thereof; or of pounds and ounces, and not merely in ounces.

(*e*) Statements of weight shall be in terms of avoirdupois pounds and ounces; statements of liquid measure shall be in terms of the United States gallon of 231 cubic inches and its customary subdivisions, i. e., in gallons, quarts, pints, or fluid ounces, and shall express the volume of the liquid at 68° F. (20° C.); and statements of dry measure shall be in terms of the United States standard bushel of 2,150.42 cubic inches and its customary subdivisions, i. e., in bushels, half bushels, pecks, quarts, pints, or half pints: *Provided*, That, by like method, such statements may be in terms of metric weight or measure.

(*f*) The quantity of solids shall be stated in terms of weight and of liquids in terms of measure, except that in case of an article in respect to which there exists a definite

trade custom otherwise, the statement may be in terms of weight or measure in accordance with such custom. The quantity of viscous or semisolid foods, or of mixtures of solids and liquids, may be stated either by weight or measure, but the statement shall be definite and shall indicate whether the quantity is expressed in terms of weight or measure, as, for example, "Weight 12 oz," or "12 oz. avoirdupois;" "Volume 12 ounces," or "12 fluid ounces."

(*g*) The quantity of the contents shall be stated in terms of weight or measure unless the package be marked by numerical count and such numerical count gives accurate information as to the quantity of the food in the package.

(*h*) The quantity of the contents may be stated in terms of minimum weight, minimum measure or minimum count, for example, "minimum weight 16 oz.," "minimum volume 1 gallon," or "not less than 4 oz;" but in such case the statement must approximate the actual quantity and there shall be no tolerance below the stated minimum.

(*i*) The following tolerances and variations from the quantity of the contents marked on the package shall be allowed:

(1) Discrepancies due exclusively to errors in weighing, measuring, or counting which occur in packing conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to differences in the capacity of bottles and similar containers resulting solely from unavoidable difficulties in manufacturing such bottles or containers so as to be of uniform capacity: *Provided*, That no greater tolerance shall be allowed in case of bottles or similar containers which, because of their design, can not be made of approximate uniform capacity than is allowed in case of bottles or similar containers which can be manufactured so as to be of approximate uniform capacity.

(3) Discrepancies in weight or measure, due exclusively to differences in atmospheric conditions in various places, and which unavoidably result from the ordinary and customary exposure of the packages to evaporation or to the absorption of water.

Discrepancies under classes (1) and (2) of this paragraph shall be as often above as below the marked quantity. The reasonableness of discrepancies under class (3) of this paragraph will be determined on the facts in each case.

(*j*) A package containing 2 avoirdupois ounces of food, or less, is "small" and shall be exempt from marking in terms of weight.

(*k*) A package containing 1 fluid ounce of food, or less, is "small" and shall be exempt from marking in terms of measure.

(*l*) When a package is not required by paragraph (*g*) to be marked in terms of either weight or measure, and the units of food therein are six or less, it shall, for the purpose of this regulation, be deemed "small" and shall be exempt from marking in terms of numerical count.

W. G. McAdoo, *Secretary of the Treasury.*
D. F. Houston, *Secretary of Agriculture.*
William C. Redfield, *Secretary of Commerce.*

Washington, D. C., *May 11, 1914.*

GENERAL INFORMATION.

7. Individual guaranties required by Food Inspection Decision No. 153.

Regulation 9 of the Rules and Regulations for the Enforcement of the Food and Drugs Act (Food Inspection Decision No. 153) requires that guaranties, filed with this department, shall be stricken from the files on May 1, 1915, and that serial numbers assigned thereto shall not be used on the label or package of any food or drug after that date.

This regulation contemplates that on and after May 1, 1915, guaranties, if given with respect to any article of food or to any drug, shall not appear on the label or package, but shall be incorporated in or attached to the bill of sale, invoice, bill of lading, or

other schedule, giving the names and quantities of the articles. If the goods are properly described in the bill of sale or other document, they may be referred to in the guaranty as listed in the bill of sale or other document, without repetition of the detailed description. Guaranties may be written, printed, or stamped on the bill of sale or other document, and, in order to afford protection, must conform to paragraph (*d*) of the regulation.

8. Filing of guaranties and issuance of serial numbers prior to May 1, 1915.

Regulation 9 of the Rules and Regulations for the Enforcement of the Food and Drugs Act (Food Inspection Decision No. 153) provides that guaranties, filed with the Department of Agriculture, shall be stricken from the files on May 1, 1915, and the serial numbers assigned thereto shall not be used on the label or package of any food or drug after that date. It is believed accordingly that manufacturers and dealers will prefer to guarantee their goods in accordance with paragraphs (*d*) and (*e*) of the regulation, rather than to submit general guaranties and request serial numbers, which can not be used after May 1, 1915.

9. "In package form."

Representations have been made to the department that certain articles of food are not "in package form" within the meaning of the Food and Drugs Act, as amended by the act of March 3, 1913 (37 Stat., 732). It is the view of the department that the meaning of the phrase "in package form" is so clear that manufacturers and dealers will have little difficulty in determining whether or not articles of food in which they deal are included within it. If doubt arises in administering the law whether individual articles of food or classes of foods are "in package form," the department will determine the question, for administrative purposes, upon the facts in each case.

10. Inquiries regarding cases pending in the courts to be addressed to the United States attorney.

The Bureau of Chemistry receives frequent inquiries, both by letter and in person, concerning cases arising under the Food and Drugs Act in which court proceedings have been instituted. All inquiries of this nature should be addressed to the United States attorney for the district in which the case is pending.

11. Establishment of Office of State Cooperative Food and Drug Control.

The need of close and cordial cooperation between State and Federal officials charged with the enforcement of food and drug laws has long been recognized. It is the desire of the department to promote such cooperation in every possible way, and with this end in view a new organization has been formed in the Bureau of Chemistry known as the Office of State Cooperative Food and Drug Control. J. S. Abbott, formerly dairy and food commissioner of the State of Texas, has been appointed chemist in charge of this office.

12. Decree by the Argentine Republic regarding the shipment of food products of animal origin.

Translation from the Official Bulletin of the Argentine Republic, March 9, 1914:

ARTICLE 1. It is decreed—

That the following regulations proposed by the National Department of Hygiene for the shipment of food products of animal origin be herewith approved.

1. In virtue of those that determine the regulations at present in force, it is required of manufacturers or importers of products of animal origin to indicate henceforward clearly on the packages of each shipment the class of alimentary substance from which each canned product, be it fish, tunny fish, sardines, etc., or any other class of meat of domestic or other animals, has been made up; without which requirement such goods will not be permitted to enter the country.

2. In like manner it is required to announce on the shipment the name of the manufacturer and the source of origin, in accordance with the rules established in the article already cited.

3. There is allowed a period of six months from the date of official publication of this resolution for those thereby affected to arrange to carry out the conditions set by the preceding articles, with the understanding that in case they do not do so they shall incur the penalties which are set by the regulations now in force. This period of time should be understood, concerning shipments of merchandise in steamers which sail from foreign ports, as beginning with the date of the completion of the time granted, which will under no circumstances be prolonged.

ARTICLE 2. Let it be communicated, published, given to the National Register, and archived.

MIGUEL S. ORTIZ.

PLAZA.

13. Resignation.

M. C. Albrech, chief of the Pittsburgh laboratory, has resigned.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—QUOTED FROM CORRESPONDENCE.[1]

30. Fermented apple cider products.

DEAR SIR: The attention of this bureau has been called to numerous products, made from apple cider as a base, to which have been added water, sugar or glucose, and flavoring. Many of these products have been found to be fermented and to contain as much as 10 per cent alcohol.

In many cases the labels used on these products give the impression that the products are pure apple cider, which has been sweetened with sugar, and other statements are sometimes added which convey the impression that the contents of the package are a sweetened, unfermented apple cider.

In the opinion of the bureau, such labeling is in violation of the Food and Drugs Act, and these products should be plainly labeled to indicate their true nature and the fact that they are fermented beverages.

Respectfully, C. L. ALSBERG, *Chief.*

31. The use of agar-agar in food products.

DEAR SIR: In reply to your question regarding the use of Japanese kanten or agar-agar in food products, you are informed that there appears to be no objection to the use of this product, if properly purified.

It does not appear that the term "vegetable gelatin" is a correct designation for this product, as agar-agar is not a gelatin and can not be considered a substitute for it except in its power to form a jelly with water.

Respectfully, C. L. ALSBERG, *Chief.*

32. The use of cocoa dust or "fines" in the manufacture of cheap chocolate.

DEAR SIR: The attention of the bureau has been called to the use of so-called cocoa dust or "fines" in the preparation of cheap chocolates. A certain proportion of this material, which consists of the finest particles of the nibs, together with a large percentage of small fragments of shell, and, in some cases, foreign matter of the nature

[1] It should be understood that the opinions expressed in these letters are offered in an advisory capacity as representing the attitude of the bureau in the light of its present knowledge and of the facts presented by the correspondents. In order to avoid the publication of unnecessary matter, those portions of the correspondence which do not bear on the subject in question have been omitted.

of dirt and sand, is mixed with the ground, clean cocoa nibs. Many manufacturers subject the dust to a cleaning process which is supposed to remove a considerable proportion of the shell and foreign matter. As a matter of fact, analyses made by the Bureau of Chemistry indicate that the cleaning process is often practically without effect, and, in fact, in some cases the amount of cocoa material is less after cleaning than before.

In view of these facts, the bureau is of the opinion that the use of cocoa dust or "fines" in the manufacture of chocolate goods is objectionable and should be entirely discontinued until a more satisfactory method of cleaning the product is found.

Respectfully, C. L. Alsberg, *Chief.*

33. Cocaine and cocaine preparations intended for export.

Dear Sir: Your request for information relative to requirement of declaration for goods containing cocaine which are shipped abroad is at hand. In reply you are informed that in case cocaine or cocaine preparations are exported it will not be necessary to obtain a declaration, but in lieu thereof it will be necessary to keep on file foreign orders for such goods, and it will furthermore be necessary to indicate on the report in January of each year the amount of cocaine and cocaine preparations purchased, the amounts exported, and the amount used or sold within the United States. This is required simply to keep a complete record of all cocaine and cocaine preparations handled in the United States.

Respectfully, C. L. Alsberg, *Chief.*

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S. R. A.—Chem. 5. Issued June 23, 1914.

U. S. DEPARTMENT OF AGRICULTURE,

BUREAU OF CHEMISTRY.

C. L. ALSBERG, CHIEF OF BUREAU.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

MAY, 1914.

FOOD INSPECTION DECISION No. 155.

Changing effective date of Food Inspection Decision No. 153, which amends regulation 9, relating to guaranties by wholesalers, jobbers, manufacturers, and other parties residing in the United States to protect dealers from prosecution.

The effective date of Food Inspection Decision No. 153, issued May 5, 1914, is hereby postponed until May 1, 1916: *Provided*, That as to products packed and labeled prior to May 1, 1916, in accordance with law and with the regulations in force prior to May 5, 1914, it shall become effective November 1, 1916; *And provided further*, That compliance with the terms of regulation 9 of the Rules and Regulations for the Enforcement of the Food and Drugs Act as amended by Food Inspection Decision No. 153 will be permitted at any time after the date of this decision.

C. S. HAMLIN,
Acting Secretary of the Treasury.
D. F. HOUSTON,
Secretary of Agriculture.
WILLIAM C. REDFIELD,
Secretary of Commerce.

WASHINGTON, D. C., *May 29, 1914.*

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication will be issued monthly by the Bureau of Chemistry. It covers approximately the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution will be limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

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GENERAL INFORMATION.

14. Notices of Judgment to be issued as supplements.

Notices of Judgment for May will be issued separately in the form of a supplement to this issue of Service and Regulatory Announcements. In the future the practice of issuing supplements containing Notices of Judgment will be followed whenever their number makes such a course desirable.

15. General information concerning Food Inspection Decisions 153 and 155, amending regulation 9 of the Rules and Regulations for the Enforcement of the Federal Food and Drugs Act, relating to guaranties.

GUARANTY LEGENDS ON PACKAGES.

The purpose of regulation 9, as amended by F. I. D. 153 and F. I. D. 155, is to prevent the use upon the label or package of any food or drug of a statement which, in any way, might be construed as implying that the article of food or drugs has been guaranteed or approved by the Government. The guaranty legend "Guaranteed by ———, under the Food and Drugs Act, June 30, 1906," or any similar guaranty legend, should not be used on products packed or labeled on or after May 1, 1916. On and after November 1, 1916, no such guaranty legend should appear on any article of food or drugs while in the channels of commerce described in the Federal Food and Drugs Act. In the opinion of this department, it would not constitute a sufficient compliance with the regulation if only the serial number issued by this department should be blotted out from the guaranty legend heretofore in common use. The use of the words "under the Food and Drugs Act of June 30, 1906," should also be discontinued, and any statement to the effect that the article is guaranteed should contain no reference to the United States or to the Department of Agriculture.

No objection, however, would be made by this department to a statement, if true, that the guarantor himself guarantees the contents of the package to be pure, wholesome, or free from adulteration; nor, in the opinion of the department, would it constitute a violation of the regulation if it were stated, in substance, that the article is warranted by the manufacturer, or other designated person, to comply with the requirements of all State laws, or of the laws of certain named States.

TIME OF TAKING EFFECT.

Food Inspection Decision 153 was supplemented, on May 29, 1914, by Food Inspection Decision 155. The last-mentioned decision postpones the effective date of the new regulation until May 1, 1916, except that, as to goods packed and labeled prior to May 1, 1916, in accordance with law and with the regulations in force prior to May 5, 1914, it further postpones the effective date of the regulation until November 1, 1916; provided, however, that compliance with the terms of regulation 9 as amended will be permitted at any time hereafter.

Under Food Inspection Decisions 153 and 155 it will not be necessary to wait until May 1, 1916, to remove the serial number and guaranty legend from packages of food or drugs, but the use of either the serial number or the guaranty legend may be discontinued at any time. In that event, however, in order for guaranties under the Federal Food and Drugs Act to afford the dealers protection from prosecution under the act, all the requirements prescribed in regulation 9, as amended by Food Inspection Decision 153, should be complied with.

EFFECT OF AMENDMENT ON GUARANTIES FILED UNDER PRESENT REGULATION 9.

It is not intended that the provision in paragraph (*a*) of Food Inspection Decision 153, which states that—

All guaranties now on file with the Secretary of Agriculture shall be stricken from the files, and the serial numbers assigned to such guaranties shall be canceled,

shall affect the validity of such guaranties in respect to the particular articles of food or drugs covered thereby which have been sold or delivered by the guarantor to his vendee prior to the date when such guaranties shall have been stricken from the records of the department.

FORM OF GUARANTY IN FUTURE.

The amended regulation contemplates that guaranties given under the Food and Drugs Act on and after May 1, 1916, shall be incorporated in or attached to the bill of sale, invoice, bill of lading, or other schedule, giving the names and quantities of the articles. If the goods are properly described in the bill of sale or such other document they may be referred to in the guaranty as listed in the bill of sale or other document, without repetition of the detailed description. Guaranties may be printed or stamped on the bill of sale or other document referred to in paragraph (*e*), and, in order to afford protection, must conform to paragraph (*d*) of the regulation. The signature to the guaranty may also be printed or stamped on the bill of sale, or on the invoice, or on the bill of lading or other schedule, describing the goods sold, if transmitted by the guarantor direct to the dealer.

The department has no authority to prescribe the exact wording which must be used in making a guaranty, nor can it determine whether any particular guaranty submitted to it is legally sufficient to protect dealers from prosecution under the Food and Drugs Act. In the opinion of the department, however, a guaranty, if worded substantially according to the following form, will comply with all the requirements of the act:

I (we), the undersigned, do hereby guarantee that the articles of food (and drugs) listed herein (or specifying the same) are not adulterated or misbranded within the meaning of the Federal Food and Drugs Act, June 30, 1906, as amended.

(Signature and address of guarantor.)

The signature of the party making the guaranty should be followed by his address.

Regulation 9 as amended describes a form for and a method of giving a guaranty, the legal sufficiency of which, under the Food and Drugs Act, is believed to be unquestionable. In the event that guarantors desire to give general guaranties to their vendees, or desire to use any form of guaranty different from that described in regulation 9, as amended, it will be necessary for them to consider and decide for themselves whether such form is legally sufficient to protect a dealer from prosecution.

In a decision reported in Notice of Judgment No. 2471 the court held invalid a general guaranty in the following form:

The undersigned, ———, of Chicago, State of Illinois, United States of America, does hereby warrant and guarantee unto ——— that any and all articles of food and drugs, as defined by the act of Congress approved June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," which the undersigned has sold since October 1, 1906, or shall at any time hereafter prepare, manufacture for, sell, or deliver to said ———, will comply with all the provisions of said act of Congress, and are not and shall not be in any manner adulterated or misbranded within the meaning of said act.

It is expressly understood that this shall be a continuing guaranty until notice of revocation be given in writing and notice of acceptance of the guaranty is hereby waived.

Dated at Chicago this ———, 1906.

Signed: ———

In a later case the court sustained a prosecution based on a general guaranty in similar form.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—QUOTED FROM CORRESPONDENCE.[1]

34-37. Opinions regarding the weight and volume regulations (F. I. D. 154).

34. Statement of the quantity of contents on shipping cases.

Dear Sir: If two or more packages of food, each of which bears a statement of the quantity of the contents on the outside thereof, in conformity with the Food and Drugs Act as amended March 3, 1913, and the regulations thereunder, are placed in a box, bag, barrel, crate, or similar container for convenience in shipping only, it is not required that the quantity of the contents shall be stated also on such box, bag, barrel, or other container. If, however, the quantity of the contents be stated on any such box, bag, barrel, or container, the statement should be plain and correct.

Respectfully, C. L. Alsberg, *Chief.*

35. Statements of quantity distinct from questions of branding as to character of contents.

Dear Sir: Replying to your letter regarding the interpretation of section (*b*) of Food Inspection Decision No. 154, this regulation was intended to exclude from the statement of the net weight of food products in package form all linings of packages, premiums which might be inclosed in the package of food, printed circulars, and similar objects sometimes inclosed. It was not intended to exclude brine, sirup, oil, or the usual condiments which are a necessary part of canned foods; the statement of the quantity of the contents may include such substances.

The regulations, Food Inspection Decision No. 154, apply only to the marking of the quantity of the contents, and are not intended to treat of questions of misbranding as to the nature of the contents, to questions of adulteration by mixing and packing water with the product, or of substitutions of cheaper and inferior substances for the product. Violations of this character are covered by different paragraphs of the act and are the subject of Food Inspection Decision No. 144.

Respectfully, A. S. Mitchell,
Secretary, Committee on Regulations, Net Weight and Volume Law.

36. "Dram" or "drachm" interpreted as fluid measure.

The letter quoted below is a reply to the following inquiry: We put up packages of food flavors holding 5 and 15 drachms and wish to know whether they can be labeled "Contents five drachms" and "Contents fifteen drachms," respectively.

Dear Sir: The subject of your inquiry is covered by paragraph (*d*) of the regulations under the weight and volume amendment to the Food and Drugs Act (F. I. D. 154).

There appears no objection to the statement of 5 drachms, provided fluid drams are intended. Expressions of weight, however, should be in avoirdupois pounds, ounces, and fractions thereof, inasmuch as drams are units of troy weight. A statement reading "15 drams" is not in strict conformance with paragraph (*d*), inasmuch as 8 drams constitute 1 fluid ounce.

Please also note the exemptions for small packages given in paragraphs (*j*) and (*k*).

Respectfully, A. S. Mitchell,
Secretary, Committee on Regulations, Net Weight and Volume Law.

[1] It should be understood that the opinions expressed in these letters are offered in an advisory capacity as representing the attitude of the bureau in the light of its present knowledge and of the facts presented by the correspondents. In order to avoid the publication of unnecessary matter, those portions of the correspondence which do not bear on the subject in question have been omitted.

37. Statement of volume on packages containing more than 1 pint of liquid.

DEAR SIR: Replying to your letter asking whether a statement in fluid ounces is satisfactory where the contents of the package consist of more than 1 pint, the intention of the regulation was to require the statement in terms of the largest unit contained in the package, as "1 pint and 8 fluid ounces" or "1½ pints."

Respectfully, A. S. MITCHELL,
Secretary, Committee on Regulations, Net Weight and Volume Law.

38. Marmalades.

DEAR SIR: Replying to your letter relative to standards for marmalade published in Circular 19, you are informed that the bureau is now making a study of this question, and pending further information no action will be brought against marmalade made from clean, sound, properly matured and prepared fresh fruit and sugar (sucrose), even though the proportions of fruit and sugar vary within reasonable limits from those laid down in Circular 19, namely, 45 pounds of fruit to 55 pounds of sugar. As the bureau has not yet completed its investigations on this subject, no more definite statement regarding the permitted variation can be made at this time. The product must, of course, conform in name to the fruit used.

If new standards are drawn, a reasonable time will be allowed manufacturers in which to dispose of goods which they have on hand before action is taken against products not conforming to the new standards.

Respectfully, C. L. ALSBERG, *Chief.*

39. The term "jelly" not applicable to products made from gelatin.

DEAR SIR: In the opinion of the bureau, the term "jelly" without modification is applicable only to a product prepared according to definition 12 (Circular 19)[1], under Fruit and Fruit Products, the gelatinous consistency of which is derived entirely from the fruit. A product which is thickened by means of gelatin could not properly be labeled as fruit jelly, but should be designated in such a way as to clearly indicate the nature of the product.

Respectfully, C. L. ALSBERG, *Chief.*

40. The addition of alcohol to fruit juices.

DEAR SIR: An investigation by the Department of Agriculture shows that fruit juices, such as peach and cherry juices, to which alcohol has been added, are imported or shipped in interstate commerce under the designations "peach juice," "cherry juice," etc.

It is the opinion of this department that such names as "peach juice," "cherry juice," etc., should be applied only to the unfermented juices of the corresponding fruits, containing no added sugar, alcohol, or other substances.

Fruit juices to which alcohol has been added should be plainly labeled to show this, and can not properly be designated "peach juice," "cherry juice," etc.

After September 1, 1914, goods labeled contrary to the above ruling will be denied entry, and, if found in interstate commerce, appropriate action will be taken.

Respectfully, C. L. ALSBERG, *Chief.*

41. Arsenic and lead in food and food products.

DEAR SIR: For some time the Bureau of Chemistry has been investigating the presence of arsenic and lead in certain food products and has found that these metals are usually introduced into such products through the use of impure raw materials or from the apparatus or utensils employed in the processes of manufacture.

[1] Definition 12, Circular 19: Jelly is the sound, semisolid, gelatinous product made by boiling clean, sound, properly matured and prepared fresh fruit with water, concentrating the expressed and strained juice, to which sugar (sucrose) is added, and conforms in name to the fruit used in its preparation.

The poisonous properties of arsenic and lead are well known, and this bureau holds that food containing arsenic or lead, added in any manner, is adulterated, in that it contains an added poisonous or deleterious ingredient which may render the product injurious to health. Manufacturers of all food products or ingredients of foods are, therefore, warned to be on the lookout for the presence of arsenic or lead in such products and to take such precautions as are necessary to avoid its presence in the finished product or to secure its elimination therefrom.

Respectfully, C. L. ALSBERG, *Chief.*

42. The labeling of canned soaked peas.

DEAR SIR: In the opinion of the bureau the use of a vignette showing peas in the pod would not be considered proper on a label for canned soaked peas, for the reason that it might lead the purchaser to believe the product to be canned fresh peas. There would be no objection, however, to the use of a pictorial design which would not mislead purchasers as to the nature or quality of the product, such, for example, as a vignette showing a dish containing shelled peas.

Respectfully, C. L. ALSBERG, *Chief.*

43. The addition of turmeric to prepared mustard.

DEAR SIR: The addition of turmeric to prepared mustard is not prohibited, provided the coloring added by means of turmeric does not conceal damage or inferiority. Such inferiority might arise from deficiency in mustard or the substitution of charlock, starch, or other cheap filler for mustard. The presence of turmeric should in all cases be declared upon the label.

Respectfully, C. L. ALSBERG, *Chief.*

44. The labeling of artificially treated waters.

DEAR SIR: If salts are added to a natural water the quantity of salts added need not be stated, but the facts regarding such treatment must appear on the label in such a manner and in type of such size as to make it clear and not misleading. Such words as "fortified," "concentrated," "added salts," etc., do not convey the proper information to the purchaser and are considered misleading and objectionable. It would be entirely satisfactory, however, to say: "Contains added sodium chlorid," "Contains added sodium bicarbonate," "Artificially treated with sodium chlorid and sodium bicarbonate," "Fortified with magnesium sulphate," or to use any truthful legend of a similar import which conveys the proper information to the consumer.

Respectfully, C. L. ALSBERG, *Chief.*

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S. R. A.—Chem. 6. Issued July 17, 1914.

U. S. DEPARTMENT OF AGRICULTURE,

BUREAU OF CHEMISTRY.

C. L. ALSBERG, Chief of Bureau.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

JUNE, 1914.

F. I. D. 156; Information 16–18; Letters 45–60.

FOOD INSPECTION DECISION 156.

Wine.

As a result of investigations carried on by this department and of the evidence submitted at a public hearing given on November 5, 1913, the Department of Agriculture has concluded that gross deceptions have been practiced under Food Inspection Decision 120. The department has also concluded that the definition of wine in Food Inspection Decision 109 should be modified so as to permit correction of the natural defects in grape musts and wines due to climatic or seasonal conditions.

Food Inspection Decisions 109 and 120 are, therefore, hereby abrogated and, as a guide for the officials of this department in enforcing the Food and Drugs Act, wine is defined to be the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment.

To correct the natural defects above mentioned the following additions to musts or wines are permitted:

In the case of excessive acidity, neutralizing agents which do not render wine injurious to health, such as neutral potassium tartrate or calcium carbonate;

In the case of deficient acidity, tartaric acid;

In the case of deficiency in saccharine matter, condensed grape must, or a pure dry sugar.

The foregoing definition does not apply to sweet wines made in accordance with the Sweet Wine Fortification Act of June 7, 1906 (34 Stat., 215).

A product made from pomace, by the addition of water, with or without sugar or any other material whatsoever, is not entitled to be called wine. It is not permissible to designate such a product as "pomace wine," nor otherwise than as "imitation wine."

D. F. Houston, *Secretary of Agriculture.*

Washington, D. C., *June 12, 1914.*

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication will be issued monthly by the Bureau of Chemistry. It covers approximately the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution will be limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

GENERAL INFORMATION.

16. Effective date of Food Inspection Decision 156 with respect to wines manufactured prior to June 12, 1914.

Proceedings under the Food and Drugs Act with respect to fermented beverages not prepared in conformity with this decision, but which, it is claimed, have been manufactured in good faith in compliance with either Food Inspection Decision 109 or Food Inspection Decision 120, will not be recommended by the Department of Agriculture, prior to June 12, 1916, if it shall appear, upon investigation, that the articles with respect to which the claim is made were actually manufactured prior to June 12, 1914, and are labeled in conformity with either Food Inspection Decision 109 or Food Inspection Decision 120, as the case may be.

17. Declaration of weight not required on wrapped hams and bacons.

The question has been raised whether the act of March 3, 1913 (37 Stat., 732), known as the Net Weight Amendment to the Food and Drugs Act, requires that the weight of the meat be marked upon the paper, cloth, or gelatin covering with which single hams and single sides or strips of bacon are wrapped or coated.

In the opinion of the department single hams and single sides or strips of bacon when so covered with paper, cloth, or gelatin are not "in package form" within the meaning of the Net Weight Amendment, and consequently it is not required that the quantity of the meat be stated on such coverings.

18. Resignation.

W. L. Dubois, chemist in charge of the Buffalo Laboratory, has resigned. W. J. McGee, chemist in charge of the Washington Food Inspection Laboratory, has taken charge of the Buffalo Laboratory temporarily pending the appointment of a successor to Mr. Dubois.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—QUOTED FROM CORRESPONDENCE.[1]

45–53. Opinions regarding the weight and volume regulations (F. I. D. 154).

45. Misleading trade terms indicating sizes of containers must not be printed on labels.

The letter quoted below is in reply to a request for the criticism of a carton which contained 4 dozen cans of deviled ham and bore the following statements: In large type, "4 doz. ¼ cans"; in smaller type, "Contents of each can 3 oz."

DEAR SIR: While the requirements for branding as given in the regulations for the enforcement of the amendment of March 3, 1913, to the Food and Drugs Act (Food Inspection Decision No. 154) apply particularly to the small cans or units in the package, and the branding of the quantity of the contents upon packing cases containing a number of units branded in conformance with the law and the regulations is not obligatory (see Service and Regulatory Announcements No. 5, Letter 34), nevertheless if the packing cases are branded the statements must be in accordance with the requirements of the act.

[1] It should be understood that the opinions expressed in these letters are offered in an advisory capacity as representing the attitude of the bureau in the light of its present knowledge and of the facts presented by the correspondents. In order to avoid the publication of unnecessary matter, those portions of the correspondence which do not bear on the subject in question have been omitted.

The statement reading "4 doz. ¼ cans" upon a package of cans containing 3 ounces is considered false and misleading and not in conformance with the requirements of the act, notwithstanding the further statement, made in smaller type, "Contents of each can 3 oz."

Respectfully, C. L. ALSBERG, *Chief.*

46. The net weight of comb honey.

DEAR SIR: The net weight of comb honey is considered to be the weight of the honey and comb, exclusive of the wooden section. It is believed that the tare weight of these sections is easily ascertained and that the filled sections can be readily sorted into approximately similar weights which may be marked in accordance with paragraph *h* of Food Inspection Decision No. 154.

The individual units must be marked, and the shipping case may be if desired. The marking should be done previous to their introduction into interstate commerce.

While the regulations do not prescribe the manner of marking, as to whether a rubber stamp may be used, the law requires that the statement shall be plain and conspicuous. Stamping by means of anilin ink is frequently illegible owing to failure to print or to the running of the ink. If such a stamp is used, care should be taken to make the statement plain and conspicuous, as required by the act.

Respectfully, A. S. MITCHELL,
Secretary Committee on Regulations, Net Weight and Volume Law.

47. Oils of the nature of cottonseed oil should be marked in terms of volume.

DEAR SIR: Referring to your letter regarding the statement of the quantity of the contents upon cottonseed oil, you are informed that in the opinion of this department oils of the nature of cottonseed oil are not viscous substances under ordinary conditions within the meaning of the regulations. Cottonseed oil should, therefore, be considered as a liquid and marked in terms of volume, gallons, half gallons, quarts, pints, and fractions thereof, or, if the quantity is less than 1 pint, in terms of fluid ounces.

Respectfully, C. L. ALSBERG, *Chief.*

48. The quantity of the contents must be marked in terms of the largest unit contained in the package.

DEAR SIR: Replying to your letter submitting copies of labels reading "_____ _____ Brand, Weight of Contents 16 oz.," you are informed that the marking is not in conformance with the requirements of the regulations as laid down in Food Inspection Decision No. 154. Please note the requirement under paragraph *d* that the quantity of the contents shall be marked in terms of the largest unit contained in the package.

Respectfully, A. S. MITCHELL,
Secretary Committee on Regulations, Net Weight and Volume Law.

49. Extension of time for the use of labels on which the quantity of contents is not marked in terms of the largest unit contained in the package.

DEAR SIR: Replying to your letter regarding the use of the expression "Contents 26 Fluid Ounces," for the marking of the quantity of the contents upon liquids, you are informed that the form of statement submitted does not comply with the requirements that the statement be made in terms of the largest unit contained in the package, which is in this case 1 pint.

The following decision has been reached by the department concerning labels where there was evident intent to comply with the requirements of the law:

In order to prevent unnecessary destruction of labels and cartons which were printed before the issuance of Food Inspection Decision 154, the department has decided that, prior to June 1, 1915, it will not recommend proceedings solely upon the charge that the statement of the quantity of the contents on a package, if otherwise satisfactory, is not in the terms of the largest unit in the package, provided that upon investigation it is found that the labels or cartons bearing such statements were printed prior to May 11, 1914, and plainly indicate an honest attempt to comply with the provisions of the law.

Respectfully,

C. L. ALSBERG, *Chief.*

50. Use of labels bearing alternative statements of contents not permissible.

DEAR SIR: Replying to your communication asking if it will be permissible to use one label at the same time for large and small bottles of liquids, the label bearing a statement reading:

"Contents: Large bottles 28 oz.
Small bottles 14 oz."

you are informed that a statement of this character is not in compliance with the regulations and is not satisfactory. Each size of bottle should be labeled with a plain statement of the quantity of its contents in terms of the largest unit. The statement upon the large bottles should read "1¾ pints" or "1 pt. 12 fl. oz." and upon the small size "14 fluid ounces."

Respectfully,

A. S. MITCHELL,
Secretary Committee on Regulations, Net Weight and Volume Law.

51. Statements of contents blown in bottles must be plain and conspicuous; statements on bottle caps are not considered conspicuous.

DEAR SIR: The Food and Drugs Act as amended by the act of March 3, 1913, provides that the quantity of the contents in the case of food in package form must be plainly and conspicuously marked on the outside of the package. Subdivision *c* of regulation 29 as amended (Food Inspection Decision 154) provides that "the statement of the quantity of the contents shall be plain and conspicuous, shall not be a part of or obscured by any legend or design, and shall be so placed and in such characters as to be readily seen and clearly legible when the size of the package and the circumstances under which it is ordinarily examined by purchasers or consumers are taken into consideration."

It would appear that a statement blown in the bottle would be satisfactory if plain and conspicuous and in conformity in other respects with the regulations. Such a statement should, of course, apply to the quantity of the contents and not to the capacity of the bottle.

I am of the opinion that the statement upon the crown cork submitted with your letter would not be conspicuous within the meaning of the act and would not comply with the terms of the regulation quoted above.

Respectfully,

C. L. ALSBERG, *Chief.*

52. Statements of contents made by means of perforations are not plain and conspicuous.

DEAR SIR: Replying to your communication, there is inclosed a copy of Food Inspection Decision No. 154, containing the regulations under the amendment to the Food and Drugs Act requiring a statement of the quantity of the contents upon food products in package form.

Inasmuch as the statement is required to be plain and conspicuous, statements made by means of perforations in the label or wrapper are deemed not in compliance with this requirement.

Respectfully,

C. L. ALSBERG, *Chief.*

53. Bottled-in-bond goods and bulk packages bearing internal-revenue brands not exempt from requirements as to declaration of contents.

DEAR SIR: The marking of the quantity of the contents upon all packages of food products should be in conformity with the regulation as given in paragraph *c* of Food Inspection Decision 154.

No decision to the contrary has been rendered regarding the marking of bottled-in-bond goods and bulk packages bearing internal-revenue brands.

Respectfully,

A. S. MITCHELL,
Secretary Committee on Regulations, Net Weight and Volume Law.

54. The term "stringless" not applicable to any one variety of beans.

DEAR SIR: This bureau has taken up the question of the meaning of the term "Refugee Beans" with the Bureau of Plant Industry.

The term "Refugee" is a class name applied to several distinct horticultural varieties of beans which vary markedly in the quality of stringiness.

As was explained in the bureau's letter of a few weeks ago (Bureau of Chemistry Service and Regulatory Announcements No. 3, letter 19), the age of the pod is an important factor in determining the amount of fiber or stringiness in the bean. Some varieties develop fiber earlier than others, and on this account those varieties which are slowest in developing the fibrous character are classed by seedsmen as stringless varieties of beans. It is not thought that the term "stringless" should be confined to any one variety of bean.

Respectfully,

C. L. ALSBERG, *Chief.*

55. Tomatoes with puree.

DEAR SIR: Your letter inquiring as to the attitude of the bureau regarding the sale of tomatoes with puree is at hand.

It is the understanding of the bureau that the term "puree" implies a certain degree of concentration. A product consisting mainly of tomato pulp which has been put through a cyclone or a cyclone and finishing machine would hardly be entitled to the name "puree."

There appears to be no objection to the sale of tomatoes with puree made from trimmings under the label "Tomatoes with Puree," provided the statement that the product is made from trimmings is printed in a conspicuous manner.

One label has come to the attention of the bureau which bears the legend "Puree from Trimmings with Tomatoes" on one face, while the other face bears a picture of a whole tomato, above which is printed the name of the brand and below the name of the canning company. Such a label is not regarded as proper, but no objection will be made to it if the legend "Puree from Trimmings with Tomatoes" is also printed across the face bearing the picture of the tomato.

Respectfully,

C. L. ALSBERG, *Chief.*

56. Meaning of the term "orangeade."

DEAR SIR: Receipt is acknowledged of your letter requesting information concerning the labeling of an orange beverage. It is noted that you state the product is made from orange peel, orange juice, citric acid, sugar, water, and color, and that you have requested information as to whether or not the word "orangeade" may be properly applied to this product.

In reply you are informed that it is the opinion of the bureau that the word "orangeade" should be applied only to a product consisting of orange juice, sugar, and water, flavored with more or less orange peel. The above product, which

contains citric acid as a substitute for orange juice, would not, in the opinion of the bureau, be properly described as orangeade. It should be plainly labeled to show that it is an imitation or compound. If the product is termed a compound, the ingredients used, including artificial color, should be plainly stated on the label in connection with the term compound.

Respectfully, C. L. ALSBERG, *Chief.*

57. Meaning of the term "orangeade powder."

DEAR SIR: You are informed that, in the opinion of the bureau, it would not be proper to apply the term "orangeade powder" to a product made by mixing citric acid, oil of orange, and artificial color. Such a product might be sold under a label which clearly indicates it to be a compound or imitation, as provided for in section 8, paragraph 4, under foods, of the Food and Drugs Act. If labeled as a compound, the ingredients should be stated, including the presence of artificial color.

Respectfully, C. L. ALSBERG, *Chief.*

58. Calculation of gluten or protein in gluten flour and other wheat products.

DEAR SIR: It is still the practice of many manufacturers and dealers in cereal products to calculate the percentage of protein or gluten in wheat flour and gluten flour by multiplying the percentage of total nitrogen in the product by the factor 6.25.

At the time of the adoption of certain food standards by this department (see Circular No. 19, Office of the Secretary of Agriculture) this factor was generally used, but subsequent investigations have shown it to be incorrect, and in 1911 the Association of Official Agricultural Chemists adopted the factor 5.70. Regulation 4 for the enforcement of the Food and Drugs Act prescribes the methods of analysis adopted by that association for the examination of food products in connection with the enforcement of that act.

It is, therefore, the opinion of this bureau that all statements of protein or gluten content on labels of wheat flour, gluten flour, or other wheat products should be calculated by multiplying the percentage of nitrogen, as determined by the Kjeldahl or Gunning method, by the factor 5.70, and after June 30, 1915, this bureau will regard as misbranded such products in which an excessive amount of gluten or protein is declared on the label owing to the use of the incorrect factor 6.25.

Respectfully, C. L. ALSBERG, *Chief.*

59. Meaning of the term "hominy feed."

DEAR SIR: We are of the opinion that hominy feed is a mixture of the bran coating, the germ, and part of the starchy portion of the corn kernel obtained in the manufacture of hominy grits for human consumption. We are further of the opinion that hominy feed is adulterated if it contains any or all of the materials which are cleaned from the corn before it is subjected to the actual milling process which finally results in hominy grits. In other words, it does not make any difference whether part of the cleanings from corn are obtained in the elevator and part in the mill; none of these cleanings from the corn is, in our opinion, a proper constituent of hominy feed.

The case is analogous to mixtures of wheat bran and screenings. Some of the screenings may be obtained from the wheat in the elevator and some in the mill, yet they are nevertheless screenings. Wheat bran is the coarse, outer coating of the wheat berry obtained in the usual commercial milling process

from wheat that has been cleaned and scoured, and is adulterated if it contains any of the cleanings or screenings obtained from the wheat before it goes to the break rolls.

Respectfully,

C. L. ALSBERG, *Chief.*

69. The labeling of malt sprouts.

DEAR SIR: We have received your communication relative to the proper branding of malt sprouts.

The department has not promulgated any specific ruling relative to this subject, but, under the general provisions of the Food and Drugs Act relative to misbranding, expects that a product which is labeled malt sprouts shall in fact consist of malt sprouts.

We recognize that malt sprouts, because of their method of production, must contain a small amount of barley hulls and small, immature, and broken kernels of malted barley. We also believe it perfectly possible, however, to limit this material, other than malt sprouts, to a reasonable and not excessive amount.

It has been our experience that some of the maltsters of the United States run their machines for detaching malt sprouts from malted barley in such a way that they remove a much larger quantity of the barley hulls than there is any necessity of removing. This results in an excessive amount of barley hulls in the malt sprouts. Not only have we found the above to be true, but we have also found that some of the maltsters add to their malt sprouts the skimmings from the steep tanks, consisting principally of light barley grains and chaff, and the screenings which are cleaned from the barley before it is subjected to the malting process, consisting of weed seeds, chaff, foreign grains, immature and broken barley grains, etc.

The department has never yet recommended a case relative to malt sprouts for prosecution unless the foreign material in the product amounted to 10 per cent or more. While we do not wish to go on record as saying that 10 per cent foreign material such as is described above is allowable in malt sprouts, this has been our limit up to the present time. This limit for foreign material was adopted after a careful investigation of the method of production of malt sprouts and the composition of same, and is believed by us to be an exceedingly generous limit. It is possible that further investigations will show that this limit of allowable foreign matter can be reduced.

We may add that even at the present time if the foreign material in malt sprouts amounted to less than 10 per cent and we could prove that such foreign material had been added to the malt sprouts after they were produced, either in the form of skimmings, screenings, or hulls, we would consider the product adulterated under the provisions of the Food and Drugs Act.

Respectfully,

D. F. HOUSTON, *Secretary of Agriculture.*

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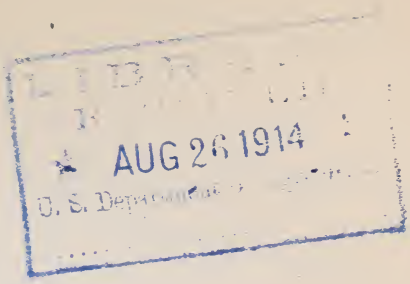

S. R. A.—Chem. 7. Issued August 25, 1914.

U. S. DEPARTMENT OF AGRICULTURE,

BUREAU OF CHEMISTRY.

C. L. ALSBERG, CHIEF OF BUREAU.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

JULY, 1914.

FOOD INSPECTION DECISION 157.

Amending Regulation 29, which relates to marking the quantity of food in package form.

Paragraph (*h*) of regulation 29 of the Rules and Regulations for the Enforcement of the Food and Drugs Act is hereby amended by striking out the words "minimum weight 16 oz." and inserting in lieu thereof the words "minimum weight 10 oz.," so that paragraph (*h*) as amended shall read as follows:

The quantity of the contents may be stated in terms of minimum weight, minimum measure, or minimum count, for example, "minimum weight 10 oz.," "minimum volume 1 gallon," or "not less than 4 oz.;" but in such case the statement must approximate the actual quantity and there shall be no tolerance below the stated minimum.

W. G. McADOO,
Secretary of the Treasury.
D. F. HOUSTON,
Secretary of Agriculture.
WM. J. HARRIS,
Acting Secretary of Commerce.

WASHINGTON, D. C., *July 25, 1914.*

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication is issued monthly by the Bureau of Chemistry. It covers approximately the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution will be limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

19. Interstate shipment of filthy, decomposed, or putrid animal or vegetable substances prohibited, unless the products are denatured so as to prevent their use as food.

Section 6 of the Food and Drugs Act states that "the term 'food,' as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound." Section 7, paragraph 6, under foods, states that a product is adulterated "if it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance," etc.

It has come to the attention of the department that certain food products which consist in whole or in part of decomposed material, such, for example, as frozen or dried eggs, are sometimes shipped in interstate commerce ostensibly for technical purposes and not for use as food. These products are shipped without labels or under labels indicating that they are intended for technical purposes and not for food. In either case there is nothing to prevent the use of the products for food purposes by the consignee, and it is known that such disposition has at times been made of them.

It is the opinion of the department that products of this character are decomposed food products within the meaning of the act as quoted above, and seizure will, therefore, be recommended in all cases of interstate shipments of such products. This course will be followed regardless of the labels under which the products are sold, since the label provides no obstacle against their use for food purposes. No action will be taken, however, in the case of decomposed food products which have been denatured in such a way as to prevent their use for food purposes.

The attitude of the department as above defined, in so far as it applies to shipments of decomposed food products bearing no labels, is in accordance with the decision of the United States District Court for the Southern District of New York in the case of The United States *v.* Thirteen Crates of Frozen Eggs (F. & D. No. 4012, S. No. 1390, N. J. 2859, 208 Fed. Rep., 950). Adulteration of this product was alleged for the reason that each of the 13 crates contained an article of food, which, being animal substance, was in whole or in part filthy, putrid, or decomposed. In directing the jury to return a verdict in favor of the Government, the court said in part that eggs of this character, not denatured, come squarely within the definition of an adulterated article of food, without regard to the purpose or intent of the owner in transporting or selling them, but that if these eggs had been denatured, so as to destroy them as an article of food, no action would have been possible under the Food and Drugs Act. The decision of the District Court was affirmed by the Circuit Court of Appeals for the Second Circuit on June 10, 1914.

20. Manufacturers must show that food products shipped in interstate commerce after September 3, 1914, without declaration of contents, were manufactured prior to that date.

The question has been frequently raised whether it will be necessary for manufacturers to show that food products shipped in interstate commerce without the weight on the label were manufactured prior to September 3, 1914.

While this question, being purely legal, can not be authoritatively determined by the Department of Agriculture, and must be decided eventually by the courts, the views of the department are:

First. That the penalties of the act of fine, imprisonment, or confiscation can not be enforced for violation of the net-weight amendment in respect to domestic food products prepared, or foreign food products imported, prior to September 3, 1914.

Second. That if, after September 3, 1914, packages of food products not marked as required by this amendment be shipped in interstate or foreign commerce, or otherwise brought within the jurisdiction of the Food and Drugs Act, the burden will be upon the person guilty of the violation to show that the article, if domestic, was prepared, or, if foreign, was imported, prior to September 3, 1914.

Third. Persons guilty of violations who can not make proof that the preparation in the case of domestic, or importation in the case of foreign, food products was prior to September 3, 1914, will be subject to the penalties of the Food and Drugs Act.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—QUOTED FROM CORRESPONDENCE.[1]

61–66. Opinions regarding the weight and volume regulations (F. I. D. 154).

61. Statement of contents on fruit in package form.

DEAR SIR: The requirement of subdivision (*a*) of regulation 29 as amended (F. I. D. 154), that the statement shall be "on the outside of the covering or container usually delivered to consumers," was intended to indicate which covering should bear the statement when more than one container was used. It was not intended to imply that packages of food products might be sold unmarked.

The question as to whether a certain article constitutes "food in package form" within the meaning of the act of March 3, 1913, amending the Federal Food and Drugs Act, is a question of law which can not be finally determined by this department. In the opinion of the department, however, apples and other varieties of fruit packed in barrels or boxes, potatoes in sacks, and fruit in crates or baskets are all food in package form within the meaning of the law, and should be marked with the quantity of the contents in accordance with regulation 29, as amended by Food Inspection Decision 154.

You ask—

"Am I right in my understanding that this law applies only to the package in which commodities were originally packed? The question arises in the case of a grocery man who buys six or eight barrels of apples on the public market, takes them to his store, and distributes them in peck, quart, and half-bushel lots. He may send these out in baskets or paper sacks. Is it expected that under these circumstances he shall also be required to mark each package he sends out?"

In the opinion of the department the net-weight amendment to the Federal Food and Drugs Act does not apply where the goods are not in package form

[1] It should be understood that the opinions expressed in these letters are offered in an advisory capacity as representing the attitude of the bureau in the light of its present knowledge and of the facts presented by the correspondents. In order to avoid the publication of unnecessary matter those portions of the correspondence which do not bear on the subject in question have been omitted.

at the time of sale in the District of Columbia or in the Territories or at the time of shipment in interstate or foreign commerce.

The department is unable to agree with you that a statement of the quantity of the contents is not required on repacked articles. If in package form and otherwise subject to the Food and Drugs Act, the quantity of the contents must be stated, irrespective of whether the articles remain in the containers in which first packed.

The department is further of the opinion that you are correct in your interpretation of the law as set forth in the postscript of your letter, that the marking of boxes of apples to show merely the number of apples therein is not a sufficient marking for the purposes of the net-weight amendment.

Respectfully, D. F. Houston, *Secretary of Agriculture.*

62. Marking packages of citrus fruit under net-weight amendment.

Dear Sir: In the enforcement of the net-weight amendment, this department is concerned with the quantity of the contents in a package and can not undertake to advise a manufacturer of containers as to the labeling thereof, inasmuch as the containers may be used for a wide variety of products and under conditions over which the manufacturer of the containers has no control.

The statement of the quantity of the contents in the case of citrus fruits may be expressed in terms of dry measure as provided by paragraph (*e*) of Food Inspection Decision 154. If the declaration is made in accordance with paragraph (*g*), the statement of the number of oranges, or other fruit, which a given crate or box contains must be qualified by a statement of the size of the fruit. This should be given in terms of the average diameter in inches, which it is believed may be easily determined by means of the "sizer" in accordance with the usual trade custom. A statement of the cubical capacity of a box as 3,456 cubic inches is not a statement of the quantity of the contents, neither is it in the terms of weight, measure, or numerical count as provided by the regulations.

Respectfully, C. F. Marvin, *Acting Secretary of Agriculture.*

63. Bottled-in-bond goods.

Dear Sir: Replying to your inquiry relative to the statement of quantity on the "bottled-in-bond" stamp on whisky, you are informed that in the opinion of this bureau such marking is not a sufficient compliance with the amendment of March 3, 1913, to the Food and Drugs Act and regulations issued thereunder. The law and the regulations require that the statement of the quantity of the contents shall be plainly and conspicuously made. The statement of the quantity on "bottled-in-bond" stamps is not regarded as a plain and conspicuous statement within the meaning of the law and the regulations.

Respectfully, C. L. Alsberg, *Chief.*

64. The expression "No. ½," referring to the size of cans, not considered misleading on shipping cases.

Dear Sir: In reply to your inquiry whether the use of the statement "No. ½" on a shipping box which contains two dozen cans, each of which bears a true declaration of the quantity of the contents, is in conformity with the Food and Drugs Act as amended March 3, 1913, and the regulations thereunder, you are informed that the use of the statement "No. ½" will be permitted in the marking of outside shipping containers. This will not permit the use of the term "½ cans," which is considered misleading as indicated in a previous letter. See S. R. A., Chem. 6, p. 416, letter No. 45.

Respectfully, C. L. Alsberg, *Chief.*

65. Statement of contents on packages of prepared mustard.

DEAR SIR: It is permissible to label prepared mustard either in terms of weight or in terms of measure, in accordance with paragraph (*f*) of Food Inspection Decision 154.

Respectfully, C. L. ALSBERG, *Chief.*

66. Recall of letter 36 in S. R. A., Chem. 5, p. 311.

DEAR SIR: The above-mentioned letter was in error in stating that drams are units of troy weight. "Dram" unqualified refers to a recognized subdivision (one-sixteenth) of an avoirdupois ounce. A "fluid dram" is one-eighth of a fluid ounce. The term "dram" is also used as an expression of apothecaries' weight, but such usage does not have the legal basis that is accorded the avoirdupois weight or the United States liquid measure.

The reply is hereby recalled, and the following should be substituted therefor:

DEAR SIR: The subject of your inquiry is covered by paragraph (*d*) of the regulations under the weight and volume amendment to the Food and Drugs Act (F. I. D. 154).

There would be no objection to the statement "5 fluid drams." However, a statement reading "15 fluid drams" is not in conformance with paragraph (*d*), inasmuch as 8 fluid drams constitute 1 fluid ounce. Please also note the exemptions for small packages given in paragraphs (*j*) and (*k*).

Respectfully, C. L. ALSBERG, *Chief.*

67. Amendment to letter 25 in S. R. A., Chem. 3, p. 113.

DEAR SIR: Inasmuch as Food Inspection Decision 153 permits the correction of a wine deficient in saccharine matter by the addition of a pure dry sugar, our previous letter (S R. A., Chem. 3, p. 113, letter 25) is hereby revoked so far as it is inconsistent with that decision.

Respectfully, C. L. ALSBERG, *Chief.*

68. Pepper shells in ground pepper.

DEAR SIR: Your request for a ruling covering the use of pepper shells in ground pepper is hereby acknowledged.

The standards in Circular 19 state that ground pepper is the product made by grinding the entire berry and contains the several parts of the berry in their normal proportions. White pepper is the dried mature berry of *Piper nigrum* L. from which the outer coating or the outer and inner coatings have been removed, and contains not less than 6 per cent of extract, etc.

The sale as pepper of mixtures of pepper and ground pepper shells is clearly prohibited by the Food and Drugs Act. Section 7 of the act, subdivisions 1 and 2, under food, state that a food is adulterated: First, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength; second. if any substance has been substituted wholly or in part for the article.

Respectfully, C. L. ALSBERG, *Chief.*

69. Use of the terms "sugar peas," "sugar corn," and "Champion peas."

DEAR SIR: Reference is made to your inquiry regarding the use of the terms "sugar peas," sugar corn," and "Champion peas."

This matter has been discussed with the Bureau of Plant Industry, and as a result of the statements made by that bureau you are informed that the use of the terms "sugar corn" and "sugar peas," as applied to varieties which are distinctly sweet, is not regarded as objectionable. The terms "sweet corn" and "sugar corn" are used interchangeably, and the term "sugar peas" is

used also for some of the higher grades of wrinkled peas which are used in canning. The term "sweet peas" would not be regarded as a synonym for "sugar peas," since the former term is confined exclusively in horticultural literature to the types of peas grown for their flowers. Sugar is customarily used in connection with the canning of both corn and peas for the purpose of sweetening the liquor, and it should be understood that the use of sugar in canning corn or peas does not justify the use of the terms "sweet corn," "sugar corn," and "sugar peas" for such products. As stated above, the use of these terms is only proper when the varieties are distinctly sweet. In this connection, the provisions of Food Inspection Decision 66 should be borne in mind.

It is the opinion of the bureau that the term "Champion" is objectionable in connection with the labeling of peas, since the use of this word would undoubtedly lead to confusion, owing to the fact that the word "Champion" is often used as a contraction for the name "Champion of England." This is a recognized horticultural name for a standard variety of peas. The use of the word "Champion" would only be regarded as proper in connection with peas belonging to the "Champion of England" variety.

Respectfully, C. L. ALSBERG, *Chief.*

70. Labeling of "skimmed" and "part-skimmed" cheeses.

DEAR SIR: The bureau requires all skimmed or part-skimmed cheeses to be plainly labeled or branded with the words "skimmed" or "part-skimmed" upon the wrapper or container of each individual cheese, as well as upon the case in which a number of small cheeses are packed.

Skimmed or part-skimmed cheeses of a size commonly sold uncut to the consumer, and not inclosed in a wrapper or other individual container, must be branded or labeled, in accordance with the fact, on the rind of the cheese itself.

Large cheeses, skimmed or part-skimmed, which are not inclosed in a wrapper or other covering than the wooden drum or box, and which are commonly sold to the consumer in segments or slices and not as entire cheeses, need not have the brand or label on the cheese itself, but only on the drum or box. If, however, any circular or printed matter be inclosed with such cheese, it must bear in conspicuous type the words "skimmed" or "part-skimmed," in accordance with the fact.

Respectfully, C. L. ALSBERG, *Chief.*

71. Notice to importers—The importation of fennel, coriander, cardamom, anise, and celery seed.

DEAR SIR: You are advised that it is the opinion of this bureau from the data available that fennel, coriander, cardamom, anise, and celery seed, respectively, should meet the following specifications:

Fennel should contain not less than 96 per cent of sound fennel seed, nor more than 9 per cent of ash.

Coriander should contain not less than 95 per cent of sound coriander seed, and not more than 7 per cent of ash.

Cardamom should contain not less than 64 per cent of sound cardamom seed and not more than 36 per cent of inert material, including the pods; ash of the whole fruit not to exceed 8 per cent.

Anise should contain not less than 97 per cent of sound anise seed and not more than 9 per cent of ash.

Celery seed should contain not less than 90 per cent of sound celery seed, and not more than 10 per cent of ash.

The above products must not contain fecal matter or anything of a harmful nature.

Action at the ports of entry will be governed according tc the above specifications.

Respectfully, C. L. ALSBERG, *Chief.*

72. Poultry foods containing limestone or calcium phosphate.

DEAR SIR: The bureau has carefully considered the labeling of poultry foods which contain limestone or calcium phosphate present in the form of grit, and has reached the conclusion that both of these substances must be considered poultry foods.

While it is undoubtedly true that some of the poultry foods on the market contain much more calcium carbonate (limestone) or much more calcium phosphate than is necessary to supply the chickens' needs in building up tissues, it is not known how much of these constituents is used by the organism in building tissue and how much as a grinding material. Consequently it is impossible to limit the calcium carbonate or calcium phosphate to a particular figure and say that above this figure the constituents named no longer act as food materials.

In view of the above, no statement on the label relative to grit is required under the provisions of the Food and Drugs Act, in case the grit is composed of calcium carbonate or calcium phosphate, provided that such calcium carbonate or calcium phosphate is not present in excessive amount. It is understood, however, that under a number of the State laws the grit must be mentioned among the ingredients.

Relative to the labeling of poultry foods which contain charcoal or grit of a siliceous nature your attention is called to letter No. 8 in S. R. A., Chem. 1, p. 5.

Respectfully, C. L. ALSBERG, *Chief.*

WASHINGTON: GOVERNMENT PRINTING OFFICE: 1914

S. R. A.—Chem. 8. Issued October 2, 1914.

U. S. DEPARTMENT OF AGRICULTURE,

BUREAU OF CHEMISTRY.

C. L. ALSBERG, CHIEF OF BUREAU.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

AUGUST, 1914.

GENERAL INFORMATION.

21. Suggestions for labeling medicines under the Sherley amendment to the Food and Drugs Act, June 30, 1906.

The bureau has received many inquiries relative to the proper labeling of medicinal preparations in compliance with the requirements of the Food and Drugs Act, as amended by the act of August 23, 1912, commonly known as the Sherley amendment.

The following suggestions are offered to manufacturers or proprietors of such preparations to serve as a guide in the preparation of labels.

1. *Claims of therapeutic effects.*—A preparation can not be properly designated as a specific, cure, remedy, or recommended as infallible, sure, certain, reliable or invaluable, or bear other promises of benefit unless the product can as a matter of fact be depended upon to produce the results claimed for it. Before making any such claim the responsible party should carefully consider whether the proposed representations are strictly in harmony with the facts; in other words, whether the medicine in the light of its composition is actually capable of fulfilling the promises made for it. For instance, if the broad representation that the product is a remedy for certain diseases is made, as, for example, by the use of the word "remedy" in the name of the preparation,

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication is issued monthly by the Bureau of Chemistry. It covers approximately the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution is limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

the article should actually be a remedy for the affections named upon the label under all conditions, irrespective of kind and cause.

2. *Indirect statements.*—Not only are direct statements and representations of a misleading character objectionable, but any suggestion, hint, or insinuation, direct or indirect, or design or device that may tend to convey a misleading impression should be avoided. This applies, for example, to such statements as "has been widely recommended for," followed by unwarranted therapeutic claims.

3. *Indefinite and sweeping terms.*—Representations that are unwarranted on account of indefiniteness of a general sweeping character should be avoided. For example, the statement that a preparation is "for kidney troubles" conveys the impression that the product is useful in the treatment of kidney affections generally. Such a representation is misleading and deceptive unless the medicine in question is actually useful in all of these affections. For this reason it is usually best to avoid terms covering a number of ailments, such as "skin diseases, kidney, liver, and bladder affections," etc. Rheumatism, dyspepsia, eczema, and the names of many other affections are more or less comprehensive, and their use under some circumstances would be objectionable. For example, a medicine should not be recommended for rheumatism unless it is capable of fulfilling the claims and representations made for it in all kinds of rheumatism. To represent that a medicine is useful for rheumatism, when as a matter of fact it is useful in only one form of rheumatism, would be misleading; such statements as "for some diseases of the kidney and liver," "for many forms of rheumatism," are objectionable, on account of indefiniteness.

Names like "heart remedy," "kidney pills," "blood purifier," "nerve tonic," "bone liniment," "lung balm," and other terms involving the names of parts of the body are objectionable for similar reasons.

4. *Testimonials.*—Testimonials, aside from the personal aspect given them by their letter form, hold out a general representation to the public for which the party doing the labeling is held to be responsible. The fact that a testimonial is genuine and honestly represents the opinion of the person writing it does not justify its use if it creates a misleading impression with regard to the results which the medicine will produce.

No statement relative to the therapeutic effects of medicinal products should be made in the form of a "testimonial" which would be regarded as unwarranted if made as a direct statement of the manufacturer.

5. *Refund guarantee.*—Statements on the labels of drugs guaranteeing them to cure certain diseases or money refunded may be so worded as to be false and fraudulent and to constitute misbranding. Misrepresentations of this kind are not justified by the fact that the purchase price of the article is actually refunded as promised.

22. Notice to manufacturers of tomato pulp.

The tomato packing season is now opening, and to insure a clean product the attention of packers is called to the statements and suggestions relative to the examination of tomato ketchup as given in Circular 68 of the Bureau of Chemistry.

While it is believed to be possible for manufacturers of tomato products to keep within the limits given—25 million bacteria per cubic centimeter, 25 yeasts and spores per one-sixtieth cubic millimeter, and molds in less than 25 per cent of the fields—and that these are the desirable maximum limits, they are in no case to be regarded as the final standard by which products of this nature are to be judged. Such products should be judged by no single factor but by all the factors involved, including the degree of concentration.

While the microscopic examination is of great value in determining the quality of the finished product, it is believed that the expense of microscopic examination can better be expended on factory inspection. It is recommended that manufacturers place greater stress upon the inspection of their raw material, and on the regulation of factory methods in order to assure themselves that no unfit material is used, that the products are handled in a cleanly and sanitary manner, and that proper sterilization results. The packer who knows that he is using only sound material and sanitary methods usually has a much better knowledge of his products than that secured by a superficial examination of the finished material.

When microscopic examinations are made they should be made by those specially trained in bacteriology, microscopy, and examination of plant structures, in order to secure trustworthy results. The chemist, even though he be an experienced analyst, usually has only a superficial knowledge of bacteriology and microscopy. Many manufacturers are employing inexperienced persons to make examinations by the methods given in Circular No. 68, and are depending upon the results obtained to determine whether or not their products comply with the requirements of the Food and Drugs Act. It has been brought to the attention of the bureau that manufacturers and buyers frequently reject and destroy wholesome food products, with the consequent loss, as the result of such untrustworthy examinations.

It is the intention of the Bureau of Chemistry to enforce more rigidly the requirements of the law relative to the use of unfit material in food products, and the suggestions made above are offered with the object of directing attention to the points where they will do the most good. It is much preferred to improve the character of food products by assisting the manufacturer than by summoning him into court.

23. Notice to oyster growers and dealers.

The attention of the bureau has recently been called to the fact that many oyster dealers are resorting to the practice of soaking shucked oysters prior to shipping them in interstate commerce. It is desired at this time to call attention to Food Inspection Decision No. 110, paragraph 6, which states that "it is unlawful to ship or to sell in interstate commerce shucked oysters to which water has been added." This decision covers the abnormal washing and chilling of oysters, which practice has the effect of soaking. The bureau will take active steps to enforce this decision.

It is desired to call the attention of the growers and dealers to this condition and regulation, and request their cooperation in suppressing this practice.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—EXTRACTS FROM CORRESPONDENCE.[1]

73–79. Opinions regarding the weight and volume regulations (F. I. D. 154).

73. Statement of weight in 8-point (brevier) caps not regarded as conspicuous in the case of canned goods.

Paragraph (*c*) of the regulations, Food Inspection Decision No. 154, provides that the statement of the quantity of contents shall be plain and con-

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spicuous, shall not be part of or obscured by any legend or design, and shall be so placed and in such characters as to be readily seen and clearly legible when the size of the package and the circumstances under which it is ordinarily examined by purchasers or consumers are taken into consideration.

Ordinarily, in the opinion of the bureau, a statement upon canned goods in 8-point type would not be conspicuous.

74. Statement of contents on neck labels.

The propriety of placing the statement of contents upon the neck label depends largely upon the facts and conditions surrounding its use. The law requires that the marking shall be plain and conspicuous, and the regulations provide that it shall be so placed and in such characters as to be readily seen and clearly legible when the size of the package and the circumstances under which it is ordinarily examined by purchasers or consumers are taken into consideration.

75. The marking of milk shipped in eight-gallon cans and sold at destination by weight.

Both the Food and Drugs Act and regulation 29, as amended (F. I. D. 154), apply to articles of food, including milk, which are shipped from one State into another, and paragraph (*a*) of the regulation requires generally that the quantity of the contents in all cases of food, if in package form, must be plainly and conspicuously marked on the outside of the covering or container usually delivered to consumers. Whether milk shipped to market in eight-gallon cans, to be sold there by weight, after dumping into a weighing tank, is in package form, within the meaning of the act and of the regulation, is a question which can be finally determined only by the courts. It is necessary, however, for the department in deciding whether prosecution shall be brought for violation of the act, or of the regulation, to determine the question for administrative purposes.

Whether milk shipped in eight-gallon cans under the conditions set forth is in package form is not entirely free from doubt. Pending further consideration, however, and until the department shall give public notice to the contrary, the department will not regard milk shipped in eight-gallon cans to market, there to be dumped into weighing tanks and sold by weight, as being in package form, and therefore subject to the requirement of the Food and Drugs Act and of the regulation that the quantity of the contents of food in package form be declared on the outside of the container.

76. Statement of contents on packages of fish in brine.

It is the opinion of the department that packages containing fish in brine should bear a plain and conspicuous statement showing the net weight of the fish exclusive of the brine.

77. Statement of contents on packages of olives in brine.

In the opinion of the department packages of olives in brine should be marked with a statement of the net weight of the olives exclusive of the brine. This should be stated in terms of the largest unit contained in the package.

78. Statement of contents on kegs and barrels of beer.

Inquiry has been made as to whether it is necessary to place a label bearing a statement of the quantity of the contents upon kegs and barrels containing beer, ale, or porter, in view of the fact that the revenue stamp upon such kegs and barrels states the quantity.

The Food and Drugs Act as amended requires marking with a plain and conspicuous statement of the quantity of the contents, and the regulations (F. I. D. 154) require all statements of the quantity of liquids to be in terms of the United States gallon and its usual subdivisions.

In the opinion of the bureau the statement of quantity placed upon the revenue stamp is not a marking sufficient to comply with these requirements.

79. Statement of contents on tubs of butter and boxes of cheese.

Butter in tubs and cheese in boxes are regarded as food in package form and should be marked in accordance with the regulations, F. I. D. 154. The bureau has held, however (S. R. A., Chem. 5, letter 34, p. 311) that, when containers are used for convenience in shipping only and the contents consist of two or more packages marked in accordance with the regulations, no statement of contents need be made on the outside of such shipping containers.

80. Tomatoes packed in brine.

It is the opinion of the bureau that canned tomatoes, when labeled as such, must comply strictly with the requirements of Food Inspection Decision 144, and that the addition of water, brine, or juice in excess of that naturally present in the tomatoes canned would constitute an adulteration.

There would appear to be no objection, however, to packing whole tomatoes in brine if sold under a label which clearly distinguishes them from canned tomatoes. In declaring the quantity of the contents of the food in such a package the statement should be based upon the weight of the tomatoes, exclusive of the brine.

81. The use of cocoanut oil in the manufacture of compressed mints.

This bureau makes no objection to the use of cocoanut oil in the manufacture of compressed mints, for the purpose of lubrication and in the proportion of one-half of one per cent.

82. Misleading labels on packages of mixed candies.

Packages of mixed candies labeled "all fruit flavors," "assorted fruit flavors," "fruit flavors," etc., are considered misbranded if the candies contained therein are prepared by the use of both true and artificial fruit flavors, for the reason that such labeling would give the impression that only true fruit flavors have been used.

83. Importations of butter under certificates from foreign governments that they are free from preservatives.

Inquiry has been made as to whether this department accepts butter coming from Queensland, Australia, on the certificate of the Queensland government that it does not contain preservative. The department will receive such certificates, but the right has been reserved to make examination from time to time, if desired, to determine if the butter is of satisfactory quality and free from preservative.

84. The protein factor. Amendment to letter 58 in S. R. A., Chem. 6, p. 420.

In the opinion of this bureau the factor 5.70 is more nearly the correct factor for protein in all straight wheat products, including bran and shorts, than is the factor 6.25. In view of the established custom, both in trade practice of buying and selling and in inspection work, of using the factor 6.25, however, a concession will be made in the case of feeds and products commonly used as ingredients thereof, allowing the use of the factor 6.25. In the event it is

decided to require the use of the factor 5.70 in wheat products other than flour and gluten, at least six months' advance notice will be given the trade.

85. Cotton seed meal.

The following statement has been made in response to questions regarding the status of cotton seed meal under the Food and Drugs Act.

1. Cotton seed meal is classed as a food and is subject to the Food and Drugs Act, as amended, and to the regulations issued thereunder.

2. When cotton seed meal is sold as a fertilizer for fertilizing purposes, and under the fertilizer laws of various States, and is so labeled or tagged, it will be considered as a fertilizer and not subject to the requirements of the Food and Drugs Act or regulations relating thereto.

3. If cotton seed meal classed and labeled as damaged or off meal is sold as a fertilizer, such meal will be classed as a fertilizer and not as a food, and therefore is not subject to the requirements of Food Inspection Decision No. 154.

4. No definite statement can be made as to whether a declaration of weight need be made on shipments of cotton seed meal or cake sold in bulk. The details of selling, packing, and shipping would have to be considered in each case in order to reach a definite conclusion.

5. Shipments of cotton seed meal or cake in package form in the channels of commerce, described in the Food and Drugs Act, must be marked in accordance with the provisions of the amendment of March 3, 1913, and the regulations issued thereunder (F. I. D. 154), irrespective of any marking or branding which may be done subsequent to delivery to consignee.

6. The same regulations apply to cotton seed cake and cracked cake as to cotton seed meal.

7. Shipments of cotton seed cake and meal on domestic bills of lading would be subject to the requirements of the Food and Drugs Act, while those intended for export to any foreign country and actually exported would not be deemed misbranded or adulterated within the provisions of the act if prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which they are intended to be shipped.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1914

S. R. A.—Chem. 9. Issued October 21, 1914.

U. S. DEPARTMENT OF AGRICULTURE,

BUREAU OF CHEMISTRY.

C. L. ALSBERG, Chief of Bureau.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

SEPTEMBER, 1914.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—EXTRACTS FROM CORRESPONDENCE.[2]

86–90. Opinions regarding the weight and volume regulations (F. I. D. 154).

86. Statement of quantity of contents on bags of green coffee.

Inquiry has been made as to whether green coffee in bags imported from Brazil should be marked with a statement of the quantity of the contents in accordance with the provisions of the act of March 3, 1913, commonly known as the Net Weight Amendment to the Federal Food and Drugs Act.

It is stated that green coffee is commonly received from Brazil in cargo lots packed in bags weighing approximately 132 pounds each, and that such bags of green coffee seldom, if ever, reach the ultimate consumer, there being practically no demand among such consumers for unroasted coffee.

The question whether green coffee in bags constitutes food in package form within the meaning of the Net Weight Amendment is, in the opinion of the department, not entirely free from doubt. Under the circumstances the department will for the present interpose no objection to the importation of green coffee in bags solely upon the ground that such bags are not plainly and conspicuously marked with a statement of the quantity of the contents.

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[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication is issued monthly by the Bureau of Chemistry. It covers approximately the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution is limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

[2] It should be understood that the opinions expressed in the letters from which these extracts are taken are offered in an advisory capacity, as representing the attitude of the bureau in the light of its present knowledge and of the facts presented by the correspondents. In order to avoid the publication of unnecessary matter, the letter form has been dispensed with and those portions of the correspondence which do not bear on the subject in question have been omitted.

Should it finally be decided by the department that bags of green coffee constitute food in package form within the meaning of the law, public notice of such a decision will be given and importers afforded an opportunity of making the necessary arrangements, in the countries from which coffees are imported, to have the necessary statements placed upon the bags.

87. Statement of quantity of contents on packages of fresh oysters.

When fresh shucked oysters are shipped in interstate commerce in returnable packages which are refrigerated, these packages should be plainly and conspicuously marked with a statement of the net contents, by measure, in terms of the largest unit of measure and fractions thereof, in the package, or in terms of weight, if preferred, if there is a trade custom to this effect.

There appears to be no objection to labeling with a statement of quantity, under these conditions, by means of a tag which is firmly affixed to the package, providing it is made conspicuous.

88. Quantity of the contents of canned oysters, canned clams, and canned shrimp to be declared on cut-out weights of the drained meat.

In the opinion of this bureau, the quantity of the contents of a package of canned (cove) oysters or canned clams, as usually packed and processed, should be declared on the basis of the cut-out weight of the drained meat. This also applies to canned shrimp.

In this connection attention is called to letters Nos. 2 and 3, in Bureau of Chemistry Service and Regulatory Announcements for January, 1914, which state the weights of drained meat which, in the opinion of the bureau, satisfactorily fulfill the requirements of Food Inspection Decision 144 in the case of canned oysters and clams.

89. Statement of quantity of contents on packages of flavoring extracts.

If a bottle of flavoring extract is placed in a permanent carton and is delivered to the consumer in the carton, the regulation (F. I. D. 154) would seem to be satisfied if the statement of quantity appears only on the carton. The law itself requires merely that the statement shall appear on the outside of the package. If the carton is a part of the permanent package, a statement placed upon it would seem to be on the outside of the package within the meaning of the Net Weight Amendment.

90. Statement of quantity of contents on packages of catsup.

In the opinion of the bureau, catsup may be sold either by weight or by measure, in conformity with paragraph (*f*) of Food Inspection Decision 154.

91. Alum in pickles.

The Referee Board of Consulting Scientific Experts has investigated the influence of aluminum compounds on the nutrition and health of man. The results of this investigation have been published in Department Bulletin 103.

The board came to the conclusion that the amount of alum which remains in pickles and is therefore consumed is so small as to be negligible. From the information at hand it also appears that alum is almost universally used in the preparation of pickles and may, therefore, be considered a common ingredient of such products.

In view of these facts, this bureau offers no objection to the use of a small amount of alum in the preservation of pickles.

92. Labeling of tamarind sirup.

The examination of many samples of so-called tamarind sirup on the market shows that they contain little or no tamarind, but consist mainly of a sugar

sirup colored with caramel and flavored with citric or tartaric acid. It is considered that a tamarind sirup should contain sufficient tamarind to give it the characteristic tamarind flavor. A sirup containing no tamarind, or only an immaterial amount, flavored with citric or tartaric acid and colored with caramel to simulate sirup of tamarinds, should be labeled as imitation tamarind sirup.

93. Substances used for correcting deficiency in saccharine matter in musts and wines (F. I. D. 156).

Food Inspection Decision No. 156 (S. R. A., Chem. 6, p. 415) reads, in part, as follows:

To correct the natural defects above mentioned the following additions to musts or wines are permitted:

* * * * * * *

In the case of deficiency in saccharine matter, condensed grape must, or a pure dry sugar.

It is the opinion of this department that such a sugar as has been sold under the trade designation of "anhydrous sugar," or any sugar of similar composition and purity, may be employed for the purpose stated in the food inspection decision.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1914

S. R. A.—Chem. 10.[1] Issued November 25, 1914.

U. S. DEPARTMENT OF AGRICULTURE,

BUREAU OF CHEMISTRY.

C. L. ALSBERG, CHIEF OF BUREAU.

SERVICE AND REGULATORY ANNOUNCEMENTS.[2]

OCTOBER, 1914.

GENERAL INFORMATION.

24. Products containing enzyms.

It has come to the attention of the bureau that many products which are claimed to contain enzyms or ferments, such as pepsin, diastase, pancreatin, trypsin, etc., are found on analysis to contain little, if any, active agent or agents. Investigations made by the bureau have shown that manufacturers frequently employ a sufficient quantity of the enzymic material which they claim to use. In many cases, however, no attempt is made to determine whether or not the material used is really active, or, if this determination is made, the degree of activity of the material is not ascertained.

Injudicious combinations of various enzyms are also made, for example, of pepsin and trypsin in liquid media. The activity of pepsin is destroyed in alkaline media and that of trypsin in acid media.

The method of manufacture is sometimes faulty. For example, the formula will direct the use of a certain amount of pepsin, then specify that heat be applied, the heat being sufficiently high in some instances to destroy the enzym. In preparations of the character under consideration enzyms will not withstand more than a moderate degree of heating, especially in the presence of moisture.

Liquid preparations are at times met with containing substances which will either destroy or impair the action of enzyms. Some enzyms are destroyed in alkaline media, others in acid media. Alcohol has long been recognized as possessing either retarding or destructive influences on many enzyms. The efficiency of pepsin in pepsin tablets is frequently impaired in the process of granulation.

Some manufacturers are aware of the fact that conditions of keeping are important factors in maintaining the activities of enzyms. Directions covering these points

[1] No supplement containing Notices of Judgment will be issued for this number of the Service and Regulatory Announcements.

[2] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated Dec. 26, 1913, this publication is issued monthly by the Bureau of Chemistry. It covers approximately the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution is limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

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are placed upon the labels of certain commodities. This practice, however, is not very generally employed. The result is that in many cases the preparations are kept so long in storage or upon the shelf that by the time they reach the consumer they possess little, if any, digestive activity.

This notice is intended as a warning that preparations claiming to contain digestive enzyms should be put up in such a way that they will have suffered little, if any, loss of activity when sold to the consumer. In the case of preparations which are liable to deterioration within a few months, it is suggested that each lot should be dated and replaced by a new lot if not sold within a certain definite time.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—EXTRACTS FROM CORRESPONDENCE.[1]

94–96. Opinions regarding the weight and volume regulations (F. I. D. 154).

94. Statement of quantity of contents may be made on tags attached to handles of wicker demijohns.

In the opinion of the bureau a tag securely affixed to the neck or handle of a wicker demijohn would be a sufficient compliance with the net-weight amendment if the tag bore a plain and conspicuous statement of the quantity of food in the demijohn The statement should be made in compliance with the requirements of the regulation. (F. I. D. 154).

95. Responsibility of manufacturers for the interstate shipment of their goods by other parties.

Information has been requested as to the responsibility of manufacturers for violation of the Food and Drugs Act by the shipment in interstate commerce of merchandise sold by them within the State in packages not marked so as to show the net contents thereof. Reference is made to manufacturers who sell their goods entirely intrastate to wholesalers who might ship them in interstate commerce. The question is asked whether, if such goods are in package form and not labeled with a statement of the quantity of the contents, the manufacturer will be liable for violation of the law if the wholesaler ships them in interstate commerce.

If the manufacturer places his products in packages not marked so as to show the quantity of the contents as required by the amendment of March 3, 1913, to the Food and Drugs Act of June 30, 1906, and sells them within the State, he will not be liable to prosecution for violation of the Federal Food and Drugs Act if they are shipped in interstate commerce by the person to whom he sells, unless he sells them under a guaranty as provided by section 9 of the Food and Drugs Act. If he sells the goods under such a guaranty, he may be liable to prosecution for violation of the act if the person to whom he sells subsequently ships them in interstate commerce.

96. Federal Food and Drugs Act not applicable to repacked articles sold within the State in which they are repacked.

The question has been asked whether it is necessary for the retailer to mark his individual packages, weighed or measured from the original package that is properly marked or labeled.

Where an article of food is taken from the package in which it is received in a State and placed by the dealer in other packages which are sold and consumed within that State, the provision of the Federal Food and Drugs Act which requires articles of food in package form to be marked with a statement of the quantity of the contents does not apply to such dealers' packages.

[1] It should be understood that the opinions expressed in the letters from which these extracts are taken are offered in an advisory capacity, as representing the attitude of the bureau in the light of its present knowledge and of the facts presented by the correspondents. In order to avoid the publication of unnecessary matter, the letter form has been dispensed with and those portions of the correspondence which do not bear on the subject in question have been omitted.

97. The use of artificial color in smoked fish.

The following reply has been made to an inquiry regarding the use of artificial color in smoked fish:

Section 7, subdivision 4, under foods, of the Federal Food and Drugs Act, states that a food will be regarded as adulterated if it be mixed, colored, powdered, coated, or stained in a manner whereby inferiority is concealed. That is to say, artificial color, whether harmless or not, may not be used in food subject to the act if in violation of this paragraph.

The question as to whether damage or inferiority is concealed is one of fact to be determined in the case of every food product to which artificial color has been added. It may be said, however, that, in the opinion of the bureau, the addition of artificial color to smoked fish, as usually practiced, results in concealing inferiority, even though a declaration of artificial color be made upon the label.

98. The use of turnip in prepared horseradish.

It is the opinion of the bureau that the addition of turnip to prepared horseradish would constitute an adulteration under the Food and Drugs Act, unless the product were labeled as a compound with a plain statement of its ingredients.

STATE DAIRY, FOOD, DRUG, AND FEEDING-STUFFS OFFICIALS.

The following list of State dairy, food, drug, and feeding-stuffs officials is correct according to the most recent information in the possession of the Bureau of Chemistry. Officials will confer a favor upon the bureau by calling attention to any errors in name, title, or address which may appear in this list and to any changes which may occur from time to time.

The names of the administrative officers, as they are referred to in the laws of the several States, appear first on this list. Those actively in charge of the enforcement of the laws are indicated by a suitable reference to the particular laws which they are called upon to enforce.

FEDERAL.

Carl L. Alsberg, Chief, Bureau of Chemistry, Department of Agriculture, Washington, D. C.

A. D. Melvin, Chief, Bureau of Animal Industry, Department of Agriculture, Washington, D. C.

W. H. Osborn, Commissioner of Internal Revenue, Treasury Department, Washington, D. C.

ALABAMA.

*R. F. Kolb, Commissioner of Agriculture and Industries, Montgomery.

C. H. Billingsley, Food, Drug, and Feed Clerk, Montgomery, in charge of Division of Foods, Drugs, and Feeding Stuffs.

†B. B. Ross, Alabama Polytechnic Institute, Auburn.

ARIZONA.

*†Charles A. Meserve, Director, State Laboratory, University of Arizona, Tucson, in charge of foods and feeding stuffs.

ARKANSAS.

John H. Page, Commissioner, Bureau of Mines, Manufactures, and Agriculture, Little Rock, in charge of foods, drugs, and feeding stuffs.

*Morgan Smith, State Health Officer, Little Rock; examines foods and drugs and reports violations of the law to John H. Page.

†A. R. Stover, Medical Department, University of Arkansas, Little Rock.

CALIFORNIA.

*Martin Regensburger, President, State Board of Health, San Francisco.

M. E. Jaffa, Director, State Food and Drug Laboratory, University of California, Berkeley, in charge of foods, drugs, and feeding stuffs.

M. T. Freitas, Chairman, State Dairy Bureau, 25 California Street, San Francisco, in charge of dairying.

COLORADO.

*John Lynch, Food and Drug Commissioner, State Board of Health, Capitol Building, Denver, in charge of foods, drugs, and feeding stuffs.

G. E. Morton, State Dairy Commissioner, Fort Collins, in charge of dairying.

†J. B. Ekeley, University of Colorado, Boulder.

CONNECTICUT.

*Frank H. Stadtmueller, Dairy and Food Commissioner, Capitol Building, Hartford, in charge of foods and drugs.

E. H. Jenkins, Director, Agricultural Experiment Station, New Haven, in charge of feeding stuffs and analysis of food and drug samples collected by the Dairy and Food Commission.

†J. P. Street, Agricultural Experiment Station, Drawer No. 1, New Haven.

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*Commissioned State official. †Collaborating chemist.

DELAWARE.

*A. E. Frantz, Secretary, State Board of Health, Wilmington, in charge of foods and drugs.

Wm. R. Messick, Factory Inspector, Rehoboth Beach.

†Herbert J. Watson, State Board of Health, Newark.

DISTRICT OF COLUMBIA.

*Wm. C. Woodward, Health Officer, Health Department, Washington.

†L. V. Dieter, Health Department, Washington.

†R. L. Lynch, Health Department, Washington.

†M. A. Pozen, Health Department, Washington.

FLORIDA.

*W. A. McRae, Commissioner of Agriculture, Tallahassee.

R. E. Rose, Chief Chemist, Department of Agriculture, in charge of foods, drugs, and feeding stuffs, Tallahassee.

GEORGIA.

*J. D. Price, Commissioner of Agriculture, Atlanta.

†R. E. Stallings, Chief Chemist, Department of Agriculture, Atlanta, in charge of foods, drugs, and feeding stuffs.

HAWAII.

A. W. Hansen, Territorial Board of Health, Honolulu.

IDAHO.

*John K. White, Dairy, Food, and Sanitary Commissioner, Boise, in charge of foods and drugs.

†H. Louis Jackson, State Board of Health, Boise.

ILLINOIS.

*W. Scott Matthews, Commissioner, State Food Commission, 1627 Manhattan Building, Chicago, in charge of foods and feeding stuffs.

J. B. Newman, Assistant Commissioner, State Food Commission, 1627 Manhattan Building, Chicago.

†William H. Harrison, Chemist, Illinois Food Commission, 1627 Manhattan Building, Chicago.

INDIANA.

*†Harry E. Barnard, State Food and Drug Commissioner, State House, Indianapolis, in charge of foods and drugs.

*W. J. Jones, jr., Purdue Agricultural Experiment Station, Lafayette, in charge of feeding stuffs.

IOWA.

*W. B. Barney, Commissioner, Dairy and Food Commission, Des Moines, in charge of dairying, foods, and feeding stuffs.

†J. R. Chittick, Dairy and Food Commission, Des Moines.

KANSAS.

*S. J. Crumbine, Secretary, State Board of Health, Topeka, in charge of foods and drugs.

George S. Hine, State Dairy Commission, Manhattan, in charge of dairying.

W. M. Jardine, Director, Kansas Agricultural Experiment Station, Manhattan, in charge of feeding stuffs.

†E. H. S. Bailey, University of Kansas, Lawrence.

†L. E. Sayre, University of Kansas, Lawrence.

*†L. A. Fitz, Agricultural College, Manhattan.

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* Commissioned State official. † Collaborating chemist.

KENTUCKY.

Joseph H. Kastle, Director, Agricultural Experiment Station, Lexington.
*R. M. Allen, Head, Food and Drug Department, Agricultural Experiment Station, Lexington, in charge of foods and drugs.
J. D. Turner, Feeding Stuffs Director, Lexington, in charge of feeding stuffs.
†J. O. La Bach, Agricultural Experiment Station, Lexington.
†Linwood A. Brown, Agricultural Experiment Station, Lexington.
†J. E. Mastin, Agricultural Experiment Station, Lexington.

LOUISIANA.

*Oscar Dowling, President, State Board of Health, New Orleans.
†George B. Taylor, State Analyst, Board of Health, New Orleans, in charge of foods and drugs.
E. O. Bruner, Commissioner of Agriculture and Immigration, Baton Rouge, in charge of feeding stuffs.

MAINE.

*John A. Roberts, Commissioner of Agriculture, Augusta.
A. M. G. Soule, Chief Food and Drug Inspector, Augusta, in charge of foods, drugs, and feeding stuffs.
C. O. Brown, Department of Agriculture, Orono, in charge of feeding stuffs.
†James M. Bartlett, Agricultural Experiment Station, Orono.

MARYLAND.

Charles Caspari, jr., Food and Drug Commissioner, Department of Health, 16 West Saratoga Street, Baltimore, in charge of foods and drugs.
H. B. McDonnell, Chemist, Agricultural Experiment Station, College Park, in charge of feeding stuffs.

MASSACHUSETTS.

*Allan J. McLoughlin, Commissioner of Health, State Department of Health, 144 State House, Boston.
†Herman C. Lythgoe, Analyst, State Department of Health, Boston, in charge of foods and drugs.
Wilfrid Wheeler, Secretary, State Board of Agriculture, 136 State House, Boston, in charge of dairying and milk products.
Wm. P. Brooks, Director, Agricultural Experiment Station, Amherst.
*P. H. Smith, Chemist, Agricultural Experiment Station, Amherst, in charge of feeding stuffs.

MICHIGAN.

*James W. Helme, Dairy and Food Commissioner, Lansing, in charge of foods, feeding stuffs, dairying, and drugs.
†Fern L. Shannon, Dairy and Food Department, Lansing.

MINNESOTA.

*Joel G. Winkjer, Dairy and Food Commissioner, New Capitol, St. Paul, in charge of dairying, foods, and feeding stuffs.
John McCabe, Assistant Commissioner, New Capitol, St. Paul.
†Julius Hortvet, State Dairy and Food Commission, Old Capitol, St. Paul.

MISSISSIPPI.

*†W. F. Hand, State Chemist, Agricultural and Mechanical College, Agricultural College, in charge of foods and the analysis of feeding stuffs.
H. E. Blakeslee, Commissioner of Agriculture and Commerce, Jackson, in charge of feeding stuffs.

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*Commissioned State official. †Collaborating chemist.

MISSOURI.

*F. H. Fricke, Food and Drug Commissioner, LaSalle Building, St. Louis, in charge of foods and drugs.

E. G. Bennett, Bureau of Dairying, Columbia, in charge of dairying.

†H. Edmund Wiedeman, State Food and Drug Department, Holland Building, St. Louis.

MONTANA.

*W. F. Cogswell, Executive Officer, Department of Public Health, Helena, in charge of foods and drugs.

A. G. Scholes, State Dairy Commissioner, Helena, in charge of dairying.

NEBRASKA.

*Clarence E. Harman, Deputy Commissioner, Food, Drug, Dairy, and Oil Commission, Lincoln, in charge of foods, feeding stuffs, drugs, and dairying.

†E. L. Redfern, State Food, Drug, Dairy and Oil Commission, Lincoln.

NEVADA.

*†S. C. Dinsmore, Pure Food and Drug Commissioner, Reno, in charge of foods, feeding stuffs, and drugs.

M. B. Kennedy, Assistant Commissioner, Reno.

NEW HAMPSHIRE.

*Irving A. Watson, Secretary, State Board of Health, State House, Concord.

†Charles D. Howard, Chemist, State Board of Health, Concord, in charge of foods and drugs.

B. E. Curry, Durham, Chemist, in charge of feeding stuffs.

NEW JERSEY.

*†R. B. Fitz-Randolph, Chief, Division of Food, Drugs, Sewerage, and Water, State Board of Health, Trenton, in charge of foods and drugs.

J. G. Lipman, Director of Agricultural Experiment Station, New Brunswick, in charge of feeding stuffs.

George W. McGuire, Chief, Bureau of Creamery and Dairy Inspection, Trenton, in charge of dairy and creamery products.

NEW YORK.

*Calvin J. Huson, Commissioner of Agriculture, Albany.

E. F. Burke, Department of Agriculture, Albany, in charge of foods and feeding stuffs.

George L. Flanders, Counsel, Department of Agriculture, Albany.

W. L. Bradt, Secretary, Board of Pharmacy, Albany, in charge of drugs.

†E. J. Wheeler, State Department of Agriculture, 79 Chapel Street, Albany.

†E. L. Baker, Agricultural Experiment Station, Geneva.

NORTH CAROLINA.

*W. A. Graham, Commissioner of Agriculture, Raleigh.

†W. M. Allen, State Chemist, Department of Agriculture, Raleigh, in charge of foods.

B. W. Kilgore, State Chemist, Department of Agriculture, Raleigh, in charge of feeding stuffs.

NORTH DAKOTA.

*†E. F. Ladd, Food Commissioner, Agricultural Experiment Station, Agricultural College, in charge of foods, feeding stuffs, and drugs.

OHIO.

*Sylvanus E. Strode, Member of Agricultural Commission of Ohio, Columbus.

B. S. Bartlow, Chief of Dairy and Food Division, Agricultural Commission, Columbus, in charge of foods, dairying, and drugs.

†William McPherson, Ohio State University, Columbus.

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*Commissioned State official. †Collaborating chemist.

OKLAHOMA.

*J. C. Mahr, Commissioner, Department of Public Health, Oklahoma City.
U. S. Russell, Assistant Food and Drug Commissioner, Oklahoma City, in charge of foods and drugs.
A. F. Howe, Dairy Commissioner, State Board of Agriculture, Oklahoma City.
†Guy Y. Williams, Professor of Chemistry, University of Oklahoma, Norman.
*L. McLennan, State Feed Inspector, State Board of Agriculture, Oklahoma City.

OREGON.

*J. D. Mickle, Dairy and Food Commissioner, 510 Worcester Building, Portland, in charge of foods, feeding stuffs, and dairying.
†A. S. Wells, State Dairy and Food Commission, 510 Worcester Building, Portland.

PENNSYLVANIA.

*James Foust, Dairy and Food Commissioner, Department of Agriculture, Harrisburg, in charge of foods and dairying.
†J. W. Kellogg, Chief Chemist, Bureau of Chemistry, Department of Agriculture, Harrisburg, in charge of feeding stuffs.
Lucius Walters, Drug Control, Williamsport.
†Wm. Frear, State College.

PHILIPPINE ISLANDS.

Victor G. Heiser, Bureau of Health, Manila.

PORTO RICO.

*W. F. Lippitt, Director of Sanitation, P. O. Box 1108, San Juan.
†Rafael del Valle Sarraga, Service of Sanitation, P. O. Box 935, San Juan.

RHODE ISLAND.

*Frank A. Jackson, Chairman, Board of Food and Drug Commissioners, Room 21, State House, Providence, in charge of foods and drugs.
Burt L. Hartwell, Director, Agricultural Experiment Station, Kingston, in charge of feeding stuffs.
P. H. Wessels, Agricultural Experiment Station, Kingston, assistant in charge of feeding stuffs.
†Philip H. Mitchell, Brown University, Providence.

SOUTH CAROLINA.

*E. J. Watson, Commissioner of Agriculture, Commerce, and Industries, Columbia, in charge of feeding stuffs, foods, and drugs.
†A. C. Summers, Department of Agriculture, Commerce, and Industries, Columbia.

SOUTH DAKOTA.

*†Guy G. Frary, Food and Drug Commissioner, Vermilion, in charge of foods, drugs, and feeding stuffs.
A. P. Ryger, Dairy Expert, Dairy Expert Department, Brookings, in charge of dairying and dairy products.

TENNESSEE.

*†Lucius P. Brown, Food and Drug Commissioner, Nashville, in charge of foods and drugs.
T. F. Peck, Commissioner of Agriculture, Nashville, in charge of feeding stuffs.

TEXAS.

*C. O. Yates, Dairy and Food Commissioner, Austin, in charge of foods and drugs.
*B. Youngblood, Agricultural Experiment Station, College Station.
W. L. Boyett, Chief Feed Inspector, College Station, in charge of feeding stuffs.
†P. S. Tilson, State Food and Drug Department, 215½ Main Street, Houston.

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* Commissioned State official. † Collaborating chemist.

UTAH.

*Willard Hansen, Dairy and Food Commissioner, 705 Walker Bank Building, Salt Lake City, in charge of dairying and foods.

Heber C. Sm th, Deputy Commissioner, Dairy and Food Department, Salt Lake City.

†Herman Harms, State Dairy and Food Bureau, 312 Boyd Park Building, Salt Lake City.

VERMONT.

*Charles F. Dalton, Secretary, State Board of Health, 184 Church Street, Burlington, in charge of foods and drugs.

C. H. Jones, Director, Agricultural Experiment Station, Burlington, in charge of feeding stuffs.

†Charles F. Whitney, State Board of Health, 184 Church Street, Burlington.

VIRGINIA.

*Benj. L. Purcell, Dairy and Food Commissioner, Department of Agriculture and Immigration, Richmond, in charge of dairying, foods, and feeding stuffs.

E. L. Brandis, State Board of Pharmacy, Richmond, in charge of drugs.

†C. M. Bradbury, State Department of Agriculture and Immigration, Division of Chemistry, Richmond.

WASHINGTON.

H. T. Graves, Acting Commissioner of Agriculture, Division of Dairy and Live Stock, Olympia.

*J. J. Higgins, Assistant Commissioner, Division of Foods, Feeds, Fertilizers, Drugs, etc., State Departmen of Agriculture, Olympia, in charge of foods, feeding stuffs, and drugs.

†Elton Fulmer, Pullman.

WEST VIRGINIA.

H. E. Williams, Commissioner of Agriculture, Charleston, in charge of foods and drugs.

WISCONSIN.

J. Q. Emery, Dairy and Food Commissioner, Madison, in charge of dairying, foods, and drugs.

H. L. Russell, Director, Agricultural Experiment Station, Madison, in charge of feeding stuffs.

†Richard Fischer, State Dairy and Food Commission, Madison.

WYOMING.

*Maurice Groshon, Dairy, Food, and Oil Commissioner, Cheyenne, in charge of foods, feeding stuffs, and drugs.

†Ross B. Moudy, University of Wyom ng, Laramie.

JOINT COMMITTEE ON DEFINITIONS AND STANDARDS.

American Association, Dairy, Food, and Drug Officials:

W. F. Hand, Agricultural College, Miss.

E. F. Ladd, Agricultural College, N. Dak.

H. E. Barnard, Indianapolis, Ind.

Association of Official Agricultural Chemists:

J. P. Street, New Haven, Conn.

Julius Hortvet, St. Paul, Minn.

Wm. Frear, State College, Pa.

Department of Agriculture:

C. L. Alsberg, Washington, D. C.

R. L. Emerson, Washington, D. C.

I. K. Phelps, Washington, D. C.

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* Commissioned State official. † Collaborating chemist.

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U. S. DEPARTMENT OF AGRICULTURE,

BUREAU OF CHEMISTRY.

C. L. ALSBERG, CHIEF OF BUREAU.

SERVICE AND REGULATORY ANNOUNCEMENTS.[1]

NOVEMBER, 1914.

GENERAL INFORMATION.

25. Ergot in cereal food products.

It has come to the attention of the bureau that grain with an excessive content of ergot is often made into flour and other cereal products. This ergot, produced by a fungus growing through, decomposing, and developing in the place of the kernel (caryopsis) of the grain, is well known to be a poisonous substance and the use of any grain product containing an appreciable amount of ergot is dangerous to health. As a result of an investigation on this subject the bureau will consider as adulterated under the Food and Drugs Act any flour or other manufactured cereal food product which contains more than one-tenth of 1 per cent of ergot.

26. Importations of sweet almonds containing bitter almonds.

After careful consideration of all available information the bureau has reached the conclusion that importations of sweet almonds shall not be permitted entry when they contain more than 5 per cent of bitter almonds, where there is a possibility of the almonds being used as such for edible purposes in the raw state.

27. Shrimp preserved with borax or boric acid regarded as adulterated.

The bureau has recently recommended the seizure of a number of shipments of shrimp and prawn in kegs on the ground that they contain boric acid or borax. The addition of these preservatives is regarded as an adulteration within the meaning of the Food and Drugs Act. This notice is issued as a warning to packers against the use of such preservatives in the preparation of these products.

[1] In conformity with a uniform plan for the issuance of information, instructions, and notices of a regulatory nature by various branches of the department, as prescribed by the Acting Secretary of Agriculture in memorandum No. 57, dated December 26, 1913, this publication is issued monthly by the Bureau of Chemistry. It covers approximately the entire month for which it is dated, and each month's issue is expected to appear in the early part of the succeeding month. Free distribution is limited to firms, establishments, and journals especially concerned. Others desiring copies may obtain them from the Superintendent of Documents, Government Printing Office, Washington, D. C., at 5 cents each, or 50 cents a year.

73561°—14

28. Definition of "immature" as applied to California oranges.

The Bureau of Chemistry has received repeated requests to define the terms "immature" and "maturity" as used in Food Inspection Decision 133, relating to the coloring of green citrus fruits. Such a definition seems desirable, in view of the uncertainty now existing regarding the scope of this decision.

As a result of the investigations carried out during the season of 1913 and 1914 the Bureau of Chemistry considers California oranges to be immature if the juice does not contain soluble solids equal to, or in excess of, 8 parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization. Owing to the fact that opportunity has been given to study the composition of California oranges during one season only, the ratio set at this time is lower than that which is believed to be the minimum for properly matured fruit. It may, therefore, be expected that the requirements will be made more strict after data from several crops are available.

OPINIONS OF GENERAL INTEREST REGARDING QUESTIONS ARISING UNDER THE FOOD AND DRUGS ACT—EXTRACTS FROM CORRESPONDENCE.[1]

99–101. Opinions regarding the weight and volume regulations (F. I. D. 154).

99. Statement of net weight on cans of olives.

In the opinion of the bureau the ruling published in Service and Regulatory Announcements, August, 1914 (S. R. A., Chem. 8), letter No. 77, with reference to olives in brine, is applicable also to the method of declaring the quantity of contents on the labels of olives in cans.

100. Shipments in tank cars not in package form.

Inquiry has been made regarding the application of the "net weight" amendment to shipments in tank cars.

In the opinion of the bureau shipments of food products in tank cars are not in package form within the meaning of the amendment of March 3, 1913, to the Food and Drugs Act.

101. Use of the word "registered" on blown bottles.

The bureau is of the opinion that no exception should be taken under the Food and Drugs Act of June 30, 1906, as amended March 3, 1913, to the use of the word "registered" when blown in bottles in accordance with legitimate existing trade customs and various State laws.

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[1] It should be understood that the opinions expressed in the letters from which these extracts are taken are offered in an advisory capacity, as representing the attitude of the bureau in the light of its present knowledge and of the facts presented by the correspondents. In order to avoid the publication of unnecessary matter, the letter form has been dispensed with and those portions of the correspondence which do not bear on the subject in question have been omitted.

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